

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

.....

**ORIGINAL APPLICATION No. 136/2016/EZ**

**&**

**M.A.1258/2016/EZ**

**M.A. No. 346/2017/EZ**

**IN THE MATTER OF:**

**Subhas Datta  
S/o Late Baneswar Datta,  
25/1, Guitendal Lane,  
PO & PS, District-Howrah,  
PIN : 711 101, West Bengal**

..... Applicant

**V e r s u s**

- 1. State of West Bengal,  
Notice through the Principal Secretary,  
Urban Development Department,  
Government of West Bengal  
Writers' Buildings,  
Kolkata-700 001.**
- 2. Department of Environment  
Government of West Bengal  
Notice through the Principal Secretary,  
Department of Environment,  
Poura Bhavan, 4<sup>th</sup> Floor,  
FD-415/A, Sector-II,  
Salt Lake City,  
Kolkata-700106.**
- 3. Chief Executive Officer,  
Kolkata Improvement Trust,  
P-16, India Exchange Place Extension,  
Calcutta-700073.**
- 4. Ministry of Environment, Forest & Climate Change  
Represented through its Secretary,  
Govt. of India,  
Indira Paryavaran Bhavan, Jorbagh Road,  
New Delhi-110 003.**
- 5. Managing Director,**

**Football Sports Development Limited,  
608, I-B/2, Western Express Highway Service Road  
Bandra (E), Near PF Office,  
Mumbai-400051.**

**6. Managing Director,  
Kolkata Games and Sports Pvt. Ltd.,  
86 C Topsia Road,  
Kolkata-700046.  
West Bengal**

**7. West Bengal Pollution Control Board,  
Notice through the Member Secretary,  
Paribesh Bhawan, 10A, Block-LA,  
Salt Lake city,  
Kolkata-700098.**

**8. Bengal Rowing Club,  
13/2, Baroj Road,  
Rabindra Sarobar  
Kolkata-700029.**

**9. Calcutta Rowing Club,  
Kavi Bharati Sarani Road,  
Rabindra Sarobar Lake,  
Dhakuria,  
Kolkata-700029.**

**10. Lake Club,  
13/1, Baroj Road,  
Rabindra Sarobar,  
Kolkata-700 029.**

**11. Indian Life Saving Society (ILSS)  
Sarat Bose Road,  
Rabindra Sarobar (Near Nazrul Mancha)  
Kolkata-700029.**

**12. United Mohun Bagan Football Team Pvt. Ltd.  
Tent Maidan,  
Kolkata-700 021.**

**.....Respondents**

**COUNSEL FOR THE APPLICANT :**

**In person**

**COUNSEL FOR RESPONDENTS:**

**Mr. Bikas Kargupta, Advocate, Respondents No. 1&2**

**Ms. Paushali Banerjee, Advocate, Respondents No. 3**

**Mr. Gora Chand Roy Choudhury & Ms. S. Roy, Advocates, Respondent No.4**

**Mr. Pratik Shanu, Advocate, Respondent No. 5**

**Mrs. Arpita Chowdhury, Advocate, Respondent No. 6**

**Mr. Sibojyoti Chakraborty, Advocate, Respondent No. 7**

**Mr. Achinta Banerjee, Advocate, Kolkata Municipal Corporation**

Mr. Prasun Mukherjee, Siliguri Chhat Puja Seva Samiti

Ms. Anamika Pandey, Advocate for Niraja Kumar

**WITH**

**ORIGINAL APPLICATION NO.40(THC)/2017/EZ**

**IN THE MATTER OF:-**

**1.CALCUTTA CITIZEN'S INITIATIVE & ANR.**

**a Society Registered under the West Bengal Societies Registration Act, 1961**

**Represented through its Secretary, Ashok Purohit,  
Having its Office at 3, Ho Chi Minh Sarani,  
Kolkata-700071.**

**2.Sumita Banerjee representing LAKE LOVERS' FORUM**

**An Association, having its office at 125, Rash Behari Avenue, Kolkata-700 029.**

**.....Applicants**

**-Versus-**

**1.State of West Bengal**

**Through the Additional Chief Secretary,  
Department of Environment,  
Government of West Bengal,  
Having office at FD-415/A, Sector-II,  
Poura Bhawan, 4<sup>th</sup> Floor,  
Bidhannagar,  
Kolkata-700 106.**

**2.The Principal Secretary,**

**Urban Development Department having office  
At HIDCO BHAVAN Premises,**

No. 35-1111, Major Arterial Road,  
3<sup>rd</sup> Rotary New Town,  
Kolkata -700156,

3.The Chairman,  
Kolkata Improvement Trust,  
Government of West Bengal,  
Having its office at P-16, India Exchange Place Extension,  
Kolkata-700 073.

4.The Chairman,  
Kolkata Metropolitan Development Authority  
Having its office at Prashasan Bhawan, Block-DD-1,  
Sector-1, Bidhannagar, Salt Lake,  
Kolkata-700064.

5. The Chairman,  
West Bengal Pollution Control Board  
Having its office at Paribesh Bhavan,  
10-A, Block-LA, Sector-III,  
Salt Lake City,  
Kolkata-700098

6.The Commissioner of Police,  
Kolkata Police Headquarters,  
18, Lalbazar Street,  
Kolkata-700001.

7.The Chairman,  
Central Pollution Control Board  
Parivesh Bhawan,  
CBD-cum-Office Complex,  
East Arjan nagar, New Delhi-110032.

8.The Secretary,  
Ministry of Environment & Forests,  
Government of India,  
Paryavaran Bhavan, CGO Complex,  
Lodhi Road,  
New Delhi-110003.

9. The Officer-in-Charge,  
Lake Police Station,  
18, Gariahat Road (South)  
Jodhpur Park,  
Kolkata-700 068.

.....Respondents

**COUNSEL FOR THE APPLICANTS**  
Ms. Debanjana Ray Chaudhuri, Advocate

**COUNSEL FOR THE RESPONDENTS****Mr. Bikas Kargupta, Advocate for Respondents No.1,2,6&9****Ms. Munmun Tewari, Advocate for Respondent No.3****Mr. Sibojyoti Chakraborty, Advocate for Respondent No.5****Mr. Surendra Kumar, Advocate for Respondent No.7****Mr. Gora Chand Roy Choudhury, Advocate and Ms. Subarna Roy,  
Advocate for Respondent No.8****PRESENT:****Hon'ble Mr. Justice S.P.Wangdi, Judicial Member****Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member****Reserved on: 12.10.2017****Date of Judgement: .11.2017**

1. Whether the Judgment is allowed to be published on the net? Yes

2. Whether the Judgment is allowed to be published in the NGT Reporter? Yes

**J U D G E M E N T****PROF. (DR.) P.C. MISHRA, EM**

Both the applications were taken together as the issues raised are identical in nature.

**O.A. 136/2015/EZ**

1. This application was preferred by Mr. Subhas Datta, a social and environmental activist, being concerned by the potential threat to the environment of the Rabindra Sarobar Lake and its surrounding due to football matches held during night time and

other social activities including activities of the clubs located in the premises of Rabindra Sarobar Lake.

2. It is the case of the Applicant that Rabindra Sarobar Lake is a unique waterbody and one of its kind located in the city of Kolkata and is a home to several varieties of fish. The lake is also visited by different migratory birds during the winter season when they nest and breed. Considering its ecology and rich biodiversity, the lake has since been included in the National Conservation Programme (NSP) and National Lake Conservation Plans(NSCP) of Ministry of Environment, Forest and Climate Change.

3. The Applicant raised serious questions on the likely impact of the Indian Super League (ISL), the football tournament, being held during night time at Rabindra Sarobar Stadium, Kolkata, located in close proximity to the Sarboar lake, on the environment, biodiversity of Lake area, air and noise pollution etc. Being prima facie satisfied on the likely adverse impact of the ISL matches to be held during night time on the Lake environment, we directed constitution of a five-member Expert Committee consisting of the following eminent Scientists and Engineers to examine the impact of such tournaments on the lake environment based on a prescribed TOR:-

“(i) Dr. A.K.Sanyal, Chairman, West Bengal State Bio-Diversity Board, Kolkata, who shall head the committee as its Chairman.

- i) A Professor of Engineering from IIT, Kharagpur or such other experts from the IIT, who has the requisite knowledge on the subject to be nominated by the Director, IIT, Kharagpur.  
- Member
- ii) Sr. Scientist/Sr. Environmental Engineer, CPCB, to be nominated by the Regional Head of the Board .  
- Member
- iii) Sr. Scientist/Sr. Environmental Engineer, State PCB, to be nominated by the Head of the State Board.  
- Member
- iv) Sr. Scientist from NEERI, Regional Office, Kolkata to be nominated by the Regional Head of the Institute. – Member

4. The Committee was directed to examine the likely impact on the following terms of reference after visiting the spot and interacting with the organizers, applicant and other interested citizens:-

- A. Probable impact of the activities in the Rabindra Sarobar stadium during the nights connected with the ISL matches with specific reference to the following :-
  - i) Physical environments (air, water and land);
  - ii) On bio-diversity of the lake environment;
  - iii) On the migratory birds visiting the area and nesting of the Arian creatures;
- B. Preventive measures, if any, that can significantly reduce the impact if the activities are allowed to be undertaken -Suggestions.
- C. Whether the activities like ISL matches should be allowed during night time in the Rabindra Sarobar Stadium considering its location.”

5. The Expert Committee submitted its report on 26.09.2016. The committee in its report agreed with the applicant that the events such as ISL matches should be subject to regulations framed after conducting a detailed study on Environment Impact Assessment in the lake area and after ensuring that adequate preventive measures are put in place. The report of the Expert Committee including their observations on air, water and land environment of the lake including the residence and migratory birds, suggested preventive measures and general recommendation have been placed on record in our order dated 10.11.2016. However, at the cost of repetition, we reproduce the suggestions on preventive measures as

well as General recommendations which read as such:-

**“ Suggestions on preventive measures :**

The committee recommends the following measures to be complied with by the organiser(s):

1. The organiser will ensure that no provisions of environmental laws (Air, Water, Noise Pollution as well as Hazardous, Solid and Plastic Waste Management Rules 2016) are violated during the entire event.
2. To ensure that load of pollution is not so much as to affect the biodiversity.
3. No garbage is dumped in the sarovar. Proper collection and disposal system of garbage in the stadium to be maintained.
4. Proper system for solid waste collection, transport and disposal in the stadium to be maintained.
5. To ensure no waste including plastic is dumped in the Rabindra Sarovar Lake and surrounding area.
6. All building materials should be removed from the stadium site to prevent air pollution due to building materials becoming air borne.
7. Modern technology to be used to minimise spillage of light outside the stadium. The committee recommends that the organiser should fix black colour screens around the upper tier of the gallery at a height of above 10 meters to prevent spillage of light on the surrounding trees and towards the sarovar.
8. The sound system/PA system should only be used for announcement purpose within the Rabindra Sarovar stadium complex and the noise level of the sound system should be maintained as per the ambient standard. No loudspeakers should be installed outside the stadium.
9. Disk Jockey (DJ) and fire cracker should not be used during the match days.
10. No body would be allowed to use burning Mosal.
11. Green (silent) Diesel Generator (DG) Set(s) complying with the prevailing regulations of Ministry of Environment & Forests (MOEF), Govt. of India should only used.
12. The pathways for exist and entrance of the viewers would be barricaded on both sides, so that the people cannot enter the park and sarovar areas and damage the environment.
13. To check the automobile pollution only the cars of the VIPs, Police, Organisers and others of special importance, will be parked in the parking

Zone. All others will not be allowed to park within 500 meters around the sarovar.

14. Environment friendly arrangements for collection and disposal of plastic materials, solid and liquid wastes and other wastes are to be made.

15. Water sprinkling need to be done for settling of dust particles”.

The Committee also recommended that the Tribunal may consider allowing ISL matches to be held during night time in the Rabindra Sarobar Stadium with strict adherence to the rules and suggestions made in the report.

6. Considering the report of the Expert Committee we permitted the organisers to conduct ISL matches during 2016 with strict adherence to the suggestions and general recommendations of the Committee. In our order dated 28.09.2016 additional restrictions were imposed on use of floodlights, parking of vehicles, buses or taxis, use of audio system etc. In order to ensure such compliance, we directed various authorities including Commissioner of Police, Kolkata to oversee the event and ensure strict compliance of the measures suggested by the Expert Committee.

7. The Respondent No.6 filed M.A. No. 1266/2016/EZ seeking modification of our order dated 28.09.2016 by granting certain relaxation to play special music before, during and after the match during conduct of semi final match. After hearing the Learned Counsel for the parties and the Applicant, we allow the prayer on the following conditions:-

“i) Special music shall be played for 30 minutes before the match and for 10 minutes each during the interval and at the end of the match as prayed for.

ii) The sound decibel shall be restricted to the permissible limit.

iii) State PCB shall furnish the permissible sound limit to the respondent No. 6 by to-morrow i.e. 8.12.2016.

iv) The organisers of the match shall ensure that 'sound limiter', a device to control the limit of sound, is installed in the PA systems. If such device is not available in the market, endeavour shall be made to ensure that the limit prescribed by the State PCB is maintained.

v) It shall be the responsibility of the State PCB to ensure that these directions are complied with".

8. Similar relief as described above and in paragraph 6, was granted to United Mohun Bagan Football Team Pvt. Ltd., the Respondent No.12 permitting them to conduct the football matches on the following conditions:-

"

- i) Only I League matches shall be permitted to be held in the Rabindra Sarobar Lake Stadium during nights.
- ii) The undertaking given by Mr. Jishnu Saha, Ld. Sr. Counsel on behalf of the applicant in the MA shall be strictly followed.
- iii) KIT and the Kolkata Police shall ensure strict compliance of the terms and conditions set out in our order dated 28.9.2016.
- iv) Henceforth no events like the present one or that of ISL nor any other mega events like cricket and football matches shall be permitted to be held in the Stadium at nights until final order is passed in the OA."

9. The Applicant, Mr. Datta, had also filed another Application, O.A. No. 136/2015/EZ raising environmental issues of North Bengal including the precarious conditions of river Mahananda due to illegal encroachments by people and even by Govt. respondents providing temporary roads over the river during Chhatpuja. Before Chhatpuja festival of 2016, the Applicant drew our attention to various photographs of Mahananda river flowing through Siliguri town in North Bengal to illustrate the enormity of pollution caused by flowers and other puja wastes thrown to the river after Chhatpuja as well as construction of temporary bamboo bridge across the river thereby causing the river to almost change its course. On a perusal of

the various photographs and the facts referred to by Mr. Datta, we found that the issue is of grave concern requiring urgent attention of the authority. Mr. Datta had also brought to our attention to the guidelines, more particularly clause 3 issued by the West Bengal Pollution Control Board vide Memo No. 242/4K-01/2015 dated 03.09.2015, which reads as under:-

“3. Worship material like flowers, vastras (clothes), decorating material (made of paper and plastic) etc. should be removed before immersion of idols. Biodegradable materials should be collected separately for recycling or composting. Non-biodegradable materials should be collected separately for disposal in sanitary landfills. Clothes may be sent to local orphan house(s)”

Considering the facts and circumstances stated above we issued some directions for organising Chhat Puja in river Mahananda at Siliguri causing negligible/no damage in river ecosystem.

10. Mr. Datta also pointed out that the Rabindra Sarobar Lake at Kolkata, a water body under the National Lake Conservation Scheme, is also threatened due to throwing huge quantities of puja waste materials including plastic bags for which we directed the Kolkata Improvement Trust, the custodian of the lake not to permit the Chhat Puja at any place in the Rabindra Sarobar lake and its surrounding. However, Ms. Paushali Banerjee, Ld. Counsel for Kolkata Improvement Trust (KIT) on mentioning on 3<sup>rd</sup> November 2016, expressed grave urgency to hear her case as Chhat Puja, which has been prohibited by our order to be held in Rabindra Sarobar Lake, was at the very threshold and preparation for organising such event had already reached an advance stage. Secondly, the change in

venue at short notice would be impractical causing administrative difficulties and problems of law and orders.

11. One M.A. 1214/2016/EZ was filed on behalf of the Kolkata Municipal Corporation with the principal prayer of permitting the Chhat Puja festival in Rabindra Sarobar Lake in 2016 outlining certain measures taken by them for prevention of pollution of the water body. After considering the entire matter carefully and upon hearing the Ld. Advocates we deemed it expedient to modify our order dated 1.11.2016 as follows:-

“Order of complete prohibition of performing Chhat Puja and rituals connected therewith in the Rabindra Sarobar lake stands withdrawn allowing the Puja to be performed for this year on the following terms and conditions :-

- i) Since the rituals of Chhat Puja to be performed require access to water, we direct that Ghat like arrangement be made on the bank of the Lake to make it convenient for the devotees.
- ii) The place for performing Puja shall be at a designated area sufficient for accommodating the devotees who shall not be permitted to go beyond such area.
- iii) Within such designated area, barricades shall be erected either by split bamboo or by providing netting not more than 3 ft. in the lake from its bank.
- iv) All rituals and offerings shall be restricted to this 3 ft area and offerings shall not be permitted to be thrown into the lake beyond the barricade.
- v) Carrying of plastic bags/carry bags shall be strictly prohibited.
- vi) Bursting of crackers of any kind and use of public address system by the devotees shall not be permitted.
- vii) The concerned authorities of KMC and KIT may use Public Address system the sound of which shall be maintained within permissible decibel limits. This is being permitted considering the necessity of the authorities in making announcements of the necessity of the devotees to adhere to the stipulations and also to meet emergency situations.
- viii) The KIT and KMC shall provide sufficient number of bio-toilets to cater to the need of the devotees to avoid open defecation and urination on the lake side and the park.

- ix) The ceremony from its commencement to its culmination shall be supervised and monitored by the KMC and KIT in coordination with each other.
- x) The entire function from its beginning on the first day to its end on the last shall be video-graphed.
- xi) The PCB shall monitor the water quality and ambient air quality before, during and after the Chhat Puja. A compliance report be filed on or before 29.11.2016.
- xii) We make it clear that it shall be the responsibility of the KMC and KIT to remove all Puja materials thrown into the water body within the barricades at the designated place twice a day.
- xiii) It is needless to state that KMC and KIT shall work in coordination with each other to ensure smooth administration and implementation of various works relating to Chhat Puja at the Rabindra Sarobar lake.
- xiv) Compliance reports shall be filed by them on or before 29.11.2016.
- xv) Commissioner of Kolkata Police shall coordinate with the KMC and KIT and ensure compliance of our directions and for maintenance of law and order.

It is also needless to state that for smooth implementation of regulations and rules or orders, public awareness is an unavoidable necessity. For this reason, certain funds are earmarked for publicity. In such view of the matter, since the entire responsibility of holding Chhat Puja rests on the Kolkata Municipal Corporation and the State, we would direct the KMC to take up aggressive public awareness programme with regard to above directions. This may be by distribution of pamphlets, making announcements through various FM radio channels, All India Radio, TV channels and by issuing instructions to the concerned ward commissioners, etc.

The KIT, on its part, shall also take up the responsibility of publicity separately from the first day of the Puja for ensuring strict compliance of the above directions.”

12. In our order dated 28.09.2016 we had inter-alia expressed that whether or not events such as ISL matches should be allowed in the Rabindra Sarobar Stadium in future would be finally decided after we receive further inputs after a detailed EIA studies of the Lake Environment. Accordingly, we decided to hold a consultative meeting among the

stakeholders to decide on constitution of an Expert Committee to undertake EIA studies and areas to be covered for such study.

The Consultative Meeting held on 12.1.2017 was attended by the following members where a draft proposal prepared by us was circulated and contents were deliberated:-

1. Chairman, WBPCB
2. Chairman, State Bio-diversity Board, West Bengal
3. Director, Zoological Survey of India, Kolkata
4. Director, Botanical Survey of India, Kolkata
5. Head of the Regional Office of CPCB, Kolkata
6. Head of the Regional Office of NEERI, Kolkata
7. Secretary, Kolkata Improvement Trust
8. Mr. Subhas Datta, Applicant

Second round of the consultative meeting was held on 25.01.2017

which deals with constitution of committee and area of study which is as under:-

“ In view of the above, Expert Committee is constituted with the following members with Dr. A.K.Sanyal, Chairman, West Bengal State Bio-Diversity Board as Chairman of the Expert Committee and Mr. Ashoke Kr. Das, Secretary, KIT as its convenor :

1. Dr. A.K.Sanyal, Chairman, West Bengal State Bio-Diversity Board-Chairman of the Committee
2. Dr. Ujjal Kumar Mukhopadhyay, Chief Scientist, WBPCB.
3. Dr. Anirban Roy, Research Officer, West Bengal State Bio-Diversity Board.
4. Mr. Rajib Gogoi, Scientist 'D', BSI
5. Dr. Rita Saha, Scientist 'D', CPCB, Kolkata
6. Dr. Deepanjan Majumdar, Sr. Scientist, National Environment Engineering Research Institute (NEERI).
7. Dr. S.I.Kazmi, Scientist, ZSI, Kolkata
8. Mr. Ashoke Kumar Das, Secretary, KIT-Convenor

We leave it open for the Expert committee to co-opt any other member or members from the institutions from where the experts have been nominated who, in their opinion, would render assistance in undertaking the work.

**A. The area of studies have been set out as under :**

1. Listing of plant and animal species from the aquatic body (both from primary and secondary sources).
2. List of plant (tree, shrub and herbs) and animal species from the land (both from primary and secondary sources).

3. Listing of migratory birds and animals (both from primary and secondary sources).
4. Classification of existing animals and plants according to “schedule” under Wild Life Protection act, 1972,
5. Ambient Air Quality monitoring including noise level.
6. Water quality based on CPCB classification of “designated best use”.
7. Nutrients (Phosphate, Nitrate) and heavy metals (Hg, As, Cd, Pb) quantity in the water.
8. Lake sediment characteristics including nutrient (phosphate, nitrate) lead and heavy metals (Hg, As, Cd, Pb) quality.
9. Trophic status of the Lake (to find out whether the lake is in Oligotrophic, Mesotrophic or Eutrophic stage based on qualitative (colour, presence of hydrophytes) and quantitative (oxygen profile, algal diversity and dominance) studies.
10. Methodology for collection of samples (minimum No. of samples and sampling locations) and analysis will be as per recommended standards to be decided by the Committee.

**B. Impact Assessment :**

Probable impact on anthropogenic activities undertaken in Rabindra Sarobar Lake and stadium, particularly due to organisation of mega events like cricket and football matches with bursting of fire crackers and emission of high intensity noise, night lighting, organising chhat Puja and picnic parties, activities of various clubs existing in the premises, movement of large number of vehicles in the park area etc. on ecology, biodiversity and pollution of the lake environment.

It has also been decided that while the studies in Items No. 1 to 4 under **A** above shall be carried out by the ZSI, BSI and West Bengal State Bio-diversity Board, studies in items No. 5 to 9 under **A** shall be conducted by the expert members of the Committee belonging to NEERI, CPCB and the State PCB.

It is open to the Committee to undertake any other related studies as they may deem it necessary, fit and proper.

It has been agreed that the studies shall be completed within two months at the end of which the Committee shall prepare the EIA report containing quantitative and qualitative data including figures, photographs, references etc. within 15 days thereafter. The respective institutions shall provide the scientific, manpower and library support to the Committee and KIT shall coordinate the activities and provide other logistic support and prepare adequate copies of the report for submission before the Tribunal within 15 days of the preparation of the report by the Committee”.

13. In the meanwhile, an Application, Calcutta Citizen’s Initiative and Anr. Vs. State of West Bengal & Ors. , was transferred from Hon’ble Calcutta High Court to the NGT, registered as O.A. No. 40(THC)/2017/EZ. It is alleged in this application that there is a proposal to construct a temple within the Rabindra Sarobar Lake area by Kolkata Metropolitan

Development Authority. Although this was strongly denied by Ms. Paushali Banerjee, Ld. Counsel for KMDA on instruction, we prohibited the construction of any such temple in Rabindra Sarobar Lake area nor any extension of the existing religious or other institutions. Subsequently both the OAs, O.A. 136/2016/EZ and O.A. No. 40(THC)/2017/EZ was heard together as issues common to both the OAs are involved.

14. On 13<sup>th</sup> October 2017, Mr. Subhas Datta sought for an appropriate direction on organisation of Chhat Puja in the Rabindra Sarobar Lake as it is at the threshold. It was mentioned by him that the Expert Committee recommended not to organise Chhat Puja in Rabindra Sarobar lake or such other activities in view of the adverse impact on lake environment.

15. On 16<sup>th</sup> October, 2017, Mr. Feroze Edulazi, Ld. Advocate appearing with Mr. Ashok Prasad on behalf of Bihar Nagarik Sangh filed M.A. No. 330/2017/EZ with a prayer to permit the petitioners to perform "Chhat Puja" rituals in the Rabindra Sarobar Lake in terms of the guidelines issued vide order dated 3.11.2016 in O.A.136/2015/EZ. The report of the Expert Committee on the effect of 'Chhat Puja' festival and picnic being held in the lake premises is disparaging and there is clear cut recommendation not to hold such events in the lake premises. However, Mr. Feroze Edulazi, Ld. Counsel for the M.A. applicant would submit that people ought to be sensitized first and then only imposition of restriction should follow. It is undisputed that people at large were aware of our order passed last year as those are in public domain where we made it clear that further holding of festival and rituals would not be permitted in the lake and its premises.

16. Considering the fact that the 'Chhat Puja' of the year is being held after 10 days, i.e., on 26<sup>th</sup> & 27<sup>th</sup> October, 2017 in the interest of justice, we deemed it appropriate to allow the festival and rituals to be held this year on 26<sup>th</sup> evening & 27<sup>th</sup> morning as a last chance subject to the conditions imposed vide order dated 03.11.2016 in O.A. 136/2015/EZ as undertaken by Mr. Feroze Edulazi, Ld. Counsel for the Applicant in the M.A.. They were further directed to restore the conditions of the water body as it was before commencement of the festival and not to carry flowers, fire crackers, music and PA system into lake premises and not to indulge in any activity or activities which are not essentially part of the rituals.

17. On 14/11/2017 PCB, KMDA and KMC filed their respective reports of compliance. Although none of these respondents have mentioned any infraction/non-compliance of our order, we are not happy with the way the Chhat Puja was organized in Rabindra Sarobar Lake. We have also read various newspaper where non-compliance of the conditions prescribed by us including throwing of flowers & plastics to the Lake, playing of DJs and bursting of crackers in the Rabindra Sarobar Lake during Chhat Puja events were reported.

We have also perused the affidavits filed by the Respondents No. 9&10, i.e., Calcutta Rowing Club and Lake Club Ltd. respectively with some suggestions on the report of the Expert Committee. We have also taken note of the affidavit filed by The Bengal Rowing Club, Respondent No. 8 in response to M.A. No. 1258/2016/EZ.

18. Coming to the report of the Expert Committee, we have scrupulously examined the report and in our considered opinion it is a very good research based report covering all the areas prescribed therefor and will serve as an excellent document for educational and research institutions. We have thus no hesitation in accepting the entire report and the recommendations contained therein, which shall form part of our order as annexure.

Considering the entire facts and circumstances adverted to above, we deem it appropriate to issue the following directions:-

- (i) The KMDA, which is the custodian of the Rabindra Sarobar Lake shall prepare a DPR for implementation of the recommendations under "Flora and Fauna, water quality of the Sarovar (Lake) and Lake sediments & sub surface soil" in consultation with experts from Botanical Survey of India, Zoological Survey of India, the State Biodiversity Board and Water Resource Department, Govt. of West Bengal. The DPR that would include the cost estimates of the project and a time line for implementation of the Recommendation shall be filed in the Registry within six months from hence but not later than the first week of May 2018.
- (ii) While night time matches/tournaments shall be strictly prohibited in the Rabindra Sarobar Stadium, day time activities may be permitted but without bursting of fire crackers and with regulated sound intensity and regulated traffic.

- (iii) Performance of any Puja, community picnic or organisation of other social events in and around the Rabindra Sarobar Lake shall be strictly prohibited.
- (iv) There shall be no new construction or extension of existing building without the leave of the Tribunal. However, repair and renovation under the supervision of KMDA shall be permissible including reconstruction of existing boundary walls of the Lake Club Ltd. that have collapsed but without creating opening on the Lake side.
- (v) The KMDA shall introduce nominal fee for entry to the Lake with provision of free entry pass to the morning and evening walkers. This entry pass shall carry the photograph, age and address of the person. This shall be decided within two months, i.e., 4<sup>th</sup> January, 2018.
- (vi) The KMDA shall frame guidelines for operation of the clubs located in the area in question considering the recommendations of the Expert Committee and periodically monitor the activities of the clubs to ensure compliance. The KMDA shall ensure that the clubs do not have direct access to the lake area from its premises and are separated by walls, if not already existing, with entries away from the Lake side.
- (vii) For implementation of the other recommendations, a detailed phase-wise Action Plan with time line shall be prepared by

KMDA. The Action Plan shall be filed in the Registry within two months, i.e., 4<sup>th</sup> January, 2018.

(viii) We also direct the West Bengal State Pollution Control Board, to constitute an Editorial Committee consisting of at least three experts for editing the EIA report submitted by the Expert Committee. Dr. Kalyan Rudra, Chairman, West Bengal Pollution Control Board, who shall be an additional member as the Chief Editor. After it is edited, the EIA Report shall be published in a book form by the State Pollution Control Board and incorporate therein acknowledgement of the contribution of the expert members who have prepared the report. A reasonable price may be fixed for the book to recover the cost of the publication and also to make it affordable for the students, research workers and other interested persons and for libraries of educational and research institutions.

With the above observations and directions the **O.A. No. 136/2016/EZ and all connected M.As stand disposed off.**

**O.A. 40(THC)/2017/EZ**

Since issues raised in this O.A. are identical to the ones in O.A. No. 136/2016/EZ, the order passed in O.A. No. 136/2016/EZ shall be applicable in full force in this O.A. also.

Both the O.As stand disposed off.

No order as to costs.

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Justice S.P. Wangdi, JM

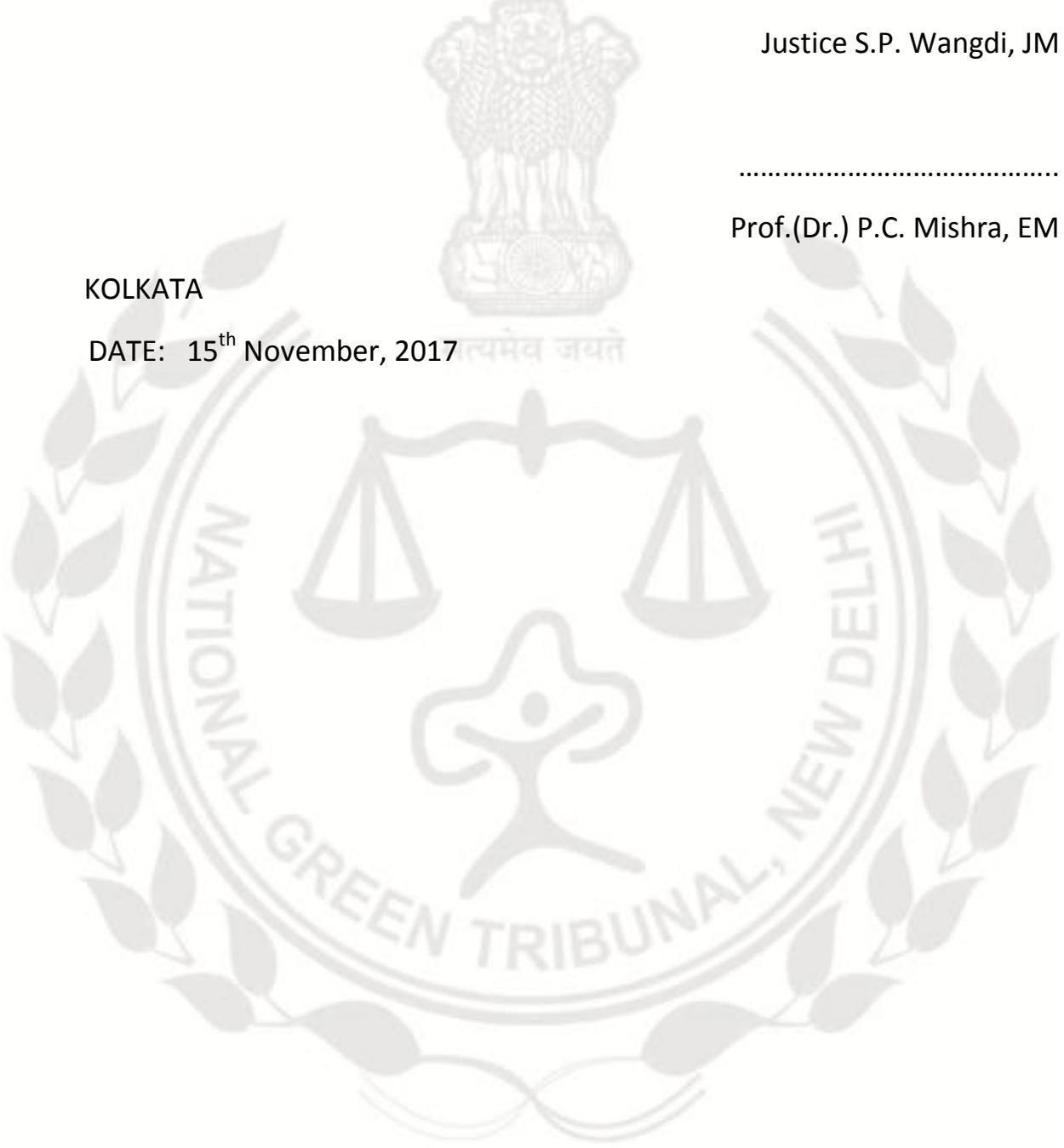
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Prof.(Dr.) P.C. Mishra, EM

KOLKATA

DATE: 15<sup>th</sup> November, 2017

त्यमेव जयते



NGT