



Government of West Bengal
Department of Environment
East Kolkata Wetlands Management Authority
 Pranisampad Bhaban, 5th Floor, LB - 2, Sector - III, Salt Lake, Kolkata – 700106
 Ph.: 91-33-2335 3003, Fax: 91-33-2335 6403

No: 096 /CTO/EN/506/2022-2023

Date: 30.03.2023

Reasoned Order

On 03.01.2023 a complaint was received from Sri Palan Naskar addressed to Chief Technical Officer, East Kolkata Wetlands Management Authority (EKWMA) alleging erection of a mobile tower by Sri Patiram Naskar at RS Dag No. 398, Khatian No. 523, Mouza-Hadia, J.L.No. 5, PS Kolkata Leather Complex, Dist. South 24 Parganas without permission from the EKWMA.

Meanwhile a writ petition has been filed bearing W.P.A. No.3175 of 2023 (Palan Naskar Vs. The State of West Bengal & Ors.) before the Hon'ble Division Bench of the High Court, Calcutta, regarding installation of the alleged mobile tower in village-Bamanghata, Naskar Para, Mouza- Hadiya, J.L.No. 398, under Bamanghata Gram Panchayat, P.S. Pragati Maidan falling within the EKW area as per the Schedule of the East Kolkata Wetlands Conservation and Management) Act, 2006 without permission of the EKWMA.

After enquiry into the matter by the staffs of EKWMA the name of the following persons have come up:

1. Sri Patiram Naskar, S/o Late Surendra Nath Naskar;
2. Sri Palash Sarkar, Tower Vision India, Astra Tower;
3. Sri Mrityunjay Kumar Singh, Manager of Legal, Tower Vision India, Astra Tower.

Thereafter, adhering to the provisions of section 11 of the East Kolkata Wetlands (Conservation & Management) Act, 2006, the Chief Technical Officer, EKWMA vide letter 043/CTO/EN/108(4)/2021-2022(link-7) dated 17.02.2023 directed the above-mentioned persons to stop work immediately and provided them an opportunity of hearing on 24.02.2023.

HEARING:

On 17.02.2023 the following persons attended the hearing :

1. Sri Patiram Naskar, S/o Late Surendra Nath Naskar;
2. Sri Madhumay Naskar, S/o Sri Patiram Naskar;

Sri Patiram Naskar, alongwith his son appeared for hearing. Sri Patiram Naskar stated that he is the absolute owner of the said land and he entered into a lease agreement on 17th day of September, 2022 with Tower Vision India Private Limited for a period of 15 years for the purpose of installation and operation of the telecom tower on the said land on a rental basis. No one appeared on behalf of the Tower Vision India, Astra Tower at the time of hearing.

As per the Schedule of the East Kolkata Wetlands (Conservation and Management) Act, 2006 RS Dag No. 398, Khatian No. 523, Mouza-Hadia, J.L.No. 5, PS Kolkata Leather Complex, Dist. South 24 Parganas is classified as "urban/rural settlement area".

According to Section 9 of the EKW (C&M) Act of 2006 notwithstanding anything contained in any law for the time being in force, every person holding any land in the East Kolkata Wetlands shall maintain and preserve such land in a manner that its area is not diminished, or character is not changed except with the previous sanction of the Authority.

Section 11(1) of the EKW (C&M) Act of 2006 states that if the authority is , either suo moto or on receipt of any information, satisfied that the character or mode of use of a land is being changed or has been changed in contravention of any provision of this Act, it may, by order in writing, require the person responsible for the change to restore the land at his own expense, to the original character or mode of use within such period as may be specified in the order and, in case of default by such person, undertake the restoration by itself and recover the cost thereof as arrears of land-revenue.

Provided that before passing the order the Authority shall give the person a reasonable opportunity of being heard.

From 04.12.2010 East Kolkata Wetlands (EKW) came under the purview of the Wetlands (Conservation and Management) Rules, 2010 under the Environment (Protection) Act, 1986 notified by the Government of India. As per Rule 4(1)(vi) of the said Rules of 2010, any construction of a permanent nature is prohibited within the East Kolkata Wetlands.

In the year 2017, the Wetlands (Conservation and Management) Rules, 2010 were superseded by the Wetlands (Conservation and Management) Rules, 2017. Rule 4(2)(vi) of the Wetlands Rules of 2017 retained the same prohibition as mentioned in Rule 4(1)(vi) of the Wetlands Rules of 2010.

CONCLUSION-

Taking into consideration all the above-mentioned points, the Chief Technical Officer, EKWMA is of opinion that installed telecom tower on RS Dag No. 398, Khatian No. 523, Mouza-Hadia, J.L.No. 5, PS Kolkata Leather Complex, Dist. South 24 Parganas is in violation of the provisions of the East Kolkata Wetlands Management (Conservation and Management) Act, 2006 and in violation of the provisions of the Wetlands (Conservation and Management) Rules, 2017. Hence, the violator, Sri Patiram Naskar is directed to remove the illegal telecom tower within 30 days of issuance of the Reasoned Order and to restore the subject land to its previous status, or else action shall be taken in accordance with law.

This issues with the approval of Member Secretary, EKWMA.

Sd/-

Chief Technical Officer

East Kolkata Wetlands Management Authority

Copy forwarded for information to –

1. Sri Patiram Naskar, S/o Late Surendra Nath , R/o Vill-Bamunghata, P.O.- Hadia, PS-KLC, South 24 PGS, Pin-700150.
2. Sri Palan Naskar, S/o Late Surendra Nath Naskar, R/o Vill-Bamunghata, P.O.- Hadia, PS-KLC, South 24 PGS, Pin-700150.
3. OSD to Hon'ble MIC, Environment Department.
4. Sr. P.S. to Principal Secretary, Environment Department.



(Kaliyamurthi Balamurugan)