

Reasons and ground realities that explicitly recommend Khablir Beel, Bilkanda, Mahispota, Bodai & Talbanda Beels as Wetlands that needs to be declared as Wetlands of National Importance

The land use pattern of the area in the vicinity of Khablir Beel, Bilkanda, Mahispota and Bodai as seen from **Survey of India Topo Sheet 79 B/6** (surveyed in 1958–59 and published in 1973), is predominantly piscicultural and agricultural. The Khardah Khal with its connection to river Hugli (Ganga) is the main source of surface water to this area. Again a **Topographical Map prepared by Panihati Municipality vide No.999/PM/0024** also corroborate the above canal system. The presence of this canal system also maintains the perennial wetland nature of these areas preserving its ecosystem.

The above also supplements National Report of India for COP7, the Ramsar Convention on Wetlands vide Article No. 2.8 which reads as follows:

Quote

Most of the wetlands in India are directly or indirectly associated with river systems. Ganga flood plain wetlands system constitutes the largest wetland regime in the country. For improving the water quality of this river system, Ganga Action Plan was initiated by the Ministry of Environment and Forests in 1985 under which a comprehensive programme has been developed for pollution abatement of the river and water quality monitoring. The methodology for water quality monitoring has been developed for four major components namely surface water quality, sediment characteristics, drain/outfall effluent quality and sewage treatment plant performance to control pollution. These components cover measurement of water quality of the river, long term changes in the river ecosystem and efficacy of the reduction of pollution load into the river from point sources through the implementation of the pollution abatement schemes.

Unquote

It will also be evident in the Drawing of Irrigation Department, Government of West Bengal vide **Map No. UD-1/87** that Bilkanda, Mahispota and Bodai Bils are situated in the locality of Panihati Municipality and Barrackpore – II Panchayat Samity under Bilkanda – I Gram Panchayat. Large stretches of the Beels have already been filled up by reckless dumping of fly ash generated in Titagarh Thermal Power Station (TTPS) of CESC Limited and industries have been set up on the reclaimed land. If the filled up areas of the Bils are not restored to original condition the entire area of Panihati Municipality and Bilkanda Gram Panchayat will be inundated in a short rainfall thus creating severe ecological disaster of vast areas of adjoining civic bodies such as Kamarhati, Panihati, Khardah Municipalities and also Bilkanda – I Gram Panchayat. In fact this apprehension has proved to be a reality during the monsoons in recent years.

KHABLR BEEL (comprising **CHOTO KHABLI** and **BARO KHABLI**) covering a large expanse of area - Khardah Canal on the north, Mahendranagar and Parthapur on the south which ultimately meets Bilkanda Mahispota wetlands. Southern side lying under the jurisdiction Panihati Municipality, Mouza Natagarh, P.S. Gholia and northern side is under the jurisdiction of Bandipur Gram Panchayat, P.S. Khardah, North 24-Parganas are the soft target of this real estate activities for which major activities start with the filling up with the fly ash generated in TTPS.

From the **Index Map of contour line of Irrigation Department** (annexed as **Annexure-II**), it is evident that Khablr Bil, Bilkanda and Mahispota Bils are situated within contour Nos.8 and 10 respectively. The adjoining areas have higher contour Nos. 12, 14, 15 and 16 whereas River Hooghly is situated at a distance of 7-8 KM (approx.) from the above wetlands are within contour Nos.20 and 22. Thus it is evidently clear that Khablr Bil, Bilkanda and Mahispota Wetlands are located in a low-lying region. **As a result the Beels act as natural collection pond of storm and waste waters of adjacent civic bodies such as Kamarhati, Panihati, Khardah Municipalities and Bandipur & Bilkanda-I Gram Panchayats.** The accumulated water pumped out through underground pipelines by Calcutta Metropolitan Development Authority constructed under GAP specifically for this purpose.

The pumping station under Ganga Action Plan was set up in the Bilkanda Beel area for interception, diversion and treatment of waste waters which was categorized as River Front Facilities (RFF) by Calcutta Metropolitan Development Authority (CMDA). The project was executed at a cost of Rs. 10.00 Crore (Rupees ten crores) approximately in 1986 by CMDA and operated and maintained by Calcutta Metropolitan Water And Sanitation Authority (CMWSA). This is the main drainage pumping station of above civic bodies. **The very purpose of the CMDA scheme aimed at facilitating drainage of the adjacent civic bodies would be defeated if these Beels/Wetlands cease to exist.**

In the above context we would like to mention the following:

"The basic insight of ecology is that all living things exist in interrelated systems; nothing exists in isolation. The world system is weblike; to pluck one strand is to cause all to vibrate; whatever happens to one part has ramifications for all the rest. Our actions are not individual but social; they reverberate throughout the whole ecosystem." [Science Action Coalition by A.Fritsch, Environmental Ethics: Choices for Concerned Citizens 3-4 (1980)]. (1988) Vol.12 Harv.Env.L.Rev. at 313)."

For protecting the wetland of the area the District Magistrate, North 24-Parganas issued specific instruction to the Sub-Divisional Officer, Barrackpore on August 21, 2003 vide No.C/310/1(3)/L&LR(N) which reads as follows:

“Sri Sekhar Debnath and his associates in the banner of Debrupayan Nagar Housing Finance Ltd., have been filling up a vast area of land in mouza Natagarh, Bilkanda, Mahispota and Jugberia, P.S. Ghola which are recorded as ‘shali’ land in the ROR but have been categorized by the West Bengal Pollution Control Board as wetland, with a view to constructing a vast housing estate over there for the last 2/3 years.

.....
.....

The State Government in the L&LR Deptt., the Fishery Deptt. & WBPCB have taken the entire matter with all seriousness and have directed the administration to take all measures so that illegal conversion of such a huge agricultural / wetland is stopped with immediate effect and stern legal action is taken against the miscreants so that they do not dare continue such illegal action any further.

Accordingly, the undersigned requests you to take immediate steps so that the illegal activities as described above is stopped by the police with immediate effect and appropriate legal measures is taken against (1) Sri Sekhar Debnath and his associates (2) Management of the Debrupayan Nagar Housing Finance Limited and (3) such other persons who are associated with the work.

The action taken by him in this matter may please be intimated to the undersigned as early as possible for onward transmission to the Government.”

The ADM & DL & LRO, North 24-Parganas also came out with all its power to stop real estate activities in the area and issued Direction to the above Sri Sekhar Debnath on 03/11/2000 vide No.98/590/V-Cell/L&LR(N) which reads as follows:

Quote

It is envisaged from a spot enquiry that you have dared to fill up a huge watery land in Mohispota and Natagarh area under BKP-II Block violating inter alia the provision of Section 4C of WBLR Act. As such you are directed to stop such act of illegal conversion forthwith otherwise action will be taken as per rule. If you feel you have any rightful claim to undertake such an act you may see the undersigned with all relevant documents.

Unquote

It is significant to note that the ADM & DL & LRO, North 24-Parganas refused conversion prayer and issued categorical order to the Managing Director of Debrupayan Housing Finance Ltd on 27/09/2005 which is reproduced below:

Quote

In reference to above, this is to inform him that **his prayer for conversion of land for the proposed Housing Project is considered and rejected** as W. B. Pollution Control Board has categorically refused to grant No Objection Certificate for construction of the Housing Project on the ground that the land in question falls within the jurisdiction of wetland area.

Unquote

Our observation regarding actual land character of Bilkanda and Mahispota area also find strong confirmation in the enquiry report of the BL & LRO, Barrackpore-II vide his office memo No.65-014/BL/BKP-II dt.29/01/2002 addressed to SDL & LRO, Barrackpore-II, The report states that “ ...about 300 acres in chunk of land which is enormous within Mouza – Natagarh, Mahispota, Bilkanda and Jugberia are submerged through out major seasons and totally infested with Kachuripana and Hogla trees too and still heap of such materials are existing over the land. At present surface becomes dry but muddy even after evaporation of staggged water with underground suction also.” The Block Land & Land Reforms Officer’s report also satisfies the criteria of wetlands definition vide Ramsar Convention on wetlands (Article 1.1), which reads as follows:

“areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed six metres”.

The Convention on Wetlands of International importance is an international treaty signed on 2 February 1971, in the Iranian city of Ramsar. This is an intergovernmental treaty which provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. It is necessary to mention here that India is a signatory to the Ramsar Convention on wetlands and thus abides by the obligations/regulations imposed by this International Treaty.

The Environment (Protection) Act, 1986 has been instrumental in protecting wetlands and groups of wetlands. The Environment (Protection) Act, 1986 is an umbrella Act which was enacted with the objective of protecting and improving the environment and for matters connected therewith. 'Environment' as defined in Section 2 of the Environment (Protection) Act included water, air and land and the interrelationship which exists between water, air and land and human beings and other living creatures, plants and micro-organisms and property.

We are forwarding herewith an inspection report of the Committee that was appointed by the Hon’ble Appellate Authority of West Bengal Pollution Control Board in Appeal Case Nos. A-46 to A-51/2001. After visit of Mahispota, P.S. Ghola of Bilkanda-I Gram Panchayat on 13/04/2002 the committee **categorized the area as vast wetland** and submitted its report. The same views were also expressed by the Institute of Wetland Management & Ecological Design and Fisheries Department, Government of W. B. In the inspection report dated

07/01/2002 of Sri Somenath Bhattacharyya, Junior Scientist, **Institute of Wetland Management & Ecological Design [IWMED]** opined the same views as that of the Fisheries Department. Sri Bhattacharyya also mentioned in this particular case that the presence of water even in the winter seasons and presence of hydrophytes emphasize the characteristics of the wetland beyond doubt.

IWMED Scientist affirmed

“Presence of water in this particular area has also been identified in Remote Sensing images dated back to 1990 – 91 [IRS IB LISS II images]. These particular stretch of land has been identified in the Wetland Map [79 B/06] prepared by Institute of Wetland Management & Ecological Design as waterlogged (seasonal) type of wetlands.

Considering all the above mentioned points, it may be concluded that the plots over which the small scale industries have recently come up are a part of vast wetland which may be categorized as Waterlogged Seasonal. The plots over which the industries have already come up are already partly reclaimed and the ground levels of these plots are now definitely at a relatively higher level than the adjacent area. Any further reclamation of these wetlands should not be carried out.”

In compliance with the order (dated 02/07/2002) of the Hon’ble Appellate Authority of WBPCB in Appeal Case No. A-18/2002 **Institute of Wetland Management & Ecological Design** visited Jugberia Mouza and Natagarh Mouza located at P.S. Gholia on 16th July 2002 to ascertain the character of certain plots where a huge housing complex, Debrupayan Housing Complex has been proposed by a private entrepreneur. This was a joint field visit made by IWMED Scientist, Senior Environmental Engineer of WBPCB and Revenue Officer of ADM & DL & LRO Office, North 24-Parganas. This area is adjacent to Mohispota Mouza over which a number of industries have come up. In concluding the report IWMED Scientist confirmed:

“Considering all the above mentioned points, it may be concluded that the plots over which the residential complex has been planned are a part of a vast wetland which may be categorized as **Waterlogged Seasonal**. The portion of the land which has already been developed for this project may be identified as a reclaimed area and the ground level of this portion is now definitely at a relatively higher level than the adjacent area. Any further reclamation of these wetlands should not be carried out.”

Regarding Talbanda and Bodai area under Gholia Police Station the matter came up basically with our complaint regarding filling up of wetland by fly ash of CESC Ltd. referred from the National Human Rights Commission and from different judicial authorities. While replying to the Special Secretary, Government of W. B., Cottage & Small Scale Industries Department, on 31/10/2005 WBPCB stated as below:

Quote

A detailed inspection was conducted and Hon'ble Pollution Control Appellate Authority (W.B.) upheld the views of the State Board taking into consideration of the Inspection Report of Fisheries Department and also Institute of Wetland Management and Ecological Design. As such, the Department identified the area, in question, as wetland area.

Unquote

Significantly Order and Judgement passed by the Hon'ble Pollution Control Appellate Authority (WB) on 09.09.2003 and 23.09.2003 in Appeal No.A-18/2002 and Nos.A-46 to A-51/2001 respectively - extensively dealt with the data on the area and declared Bilkanda Mahispota as wetland. The relevant operating portion of the judgement is being furnished below:

Quote

We have elaborately discussed the materials on record as well as the viewpoints of the different parties appearing before us. Having regard to the materials on record including the various inspection reports such as the reports of the Fisheries Department, Institute of Wetland Management And Ecological Design, the Committee appointed by this Appellate Authority, etc. we have no hesitation in holding that the appellant industrial units are situated on locations at Natun Rasta, Mohispota under Ghola Police Station which form part of a vast wetland.

Unquote

In the same judgement the Hon'ble Appellate Authority directed the appellant industrial units to submit action plan to shift their units from their present location i.e. the wetland sites within three months from the date of judgement i.e. 23.09.2003 to the West Bengal Pollution Control Board.

In a landmark case (the Dahanu Taluka Environmental Welfare Association versus the Union of India), filed by the leading environmental lawyer in the country, Mr. M. C. Mehta, the Supreme Court gave a landmark decision to conserve the biodiversity rich network of wetlands in Dahanu. Furthermore the Court ruled that the Ministry of Environment and Forests should designate and notify Dahanu as an ' ecologically sensitive' area.

What are wetlands and why are they important to us?

According to the Ramsar definition wetlands areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not

exceed six metres. Wetlands include marshes, swamps, bogs, ponds, reed beds and estuaries.

Wetlands are highly productive ecosystems that provide resources that are of economic and social importance. They are the link between water and land. They provide significant benefits to humans in general because of the ecological functions they perform in the global ecosystem. People may benefit directly from wetlands products such as fish, rice, timber, fuel wood, reeds and medicine or indirectly from other functions such as flood control, nutrient cycling, erosion control, storm protection and ground water recharge. They act as filters, thereby protecting sources of drinking water. The loss or degradation of wetlands has many consequences, such as increased flooding or the decline of water quality. Wetlands hold rainwater and sediments and purify water. The most important resource from wetlands is water that is needed for the survival of all kinds of life. Thus the wetlands play a crucial role in sustaining biodiversity. They also contribute to climate stability. Wetlands can also be utilized for recreational activities such as game viewing, hunting and fishing or just to be appreciated for their mere existence and scenic beauty. A wide variety of wetlands like marshes, swamps, open water bodies, mangroves and tidal flats and salt marshes etc. exist in our country.

Groundwater Recharge

Wetlands have an important function of recharging the ground waters. As per previously enclosed inspection report of the committee dt.13/04/2002 (already marked as Annexure–VI) appointed by the Hon’ble Appellate Authority of WBPCB this vast wetland act as a recharging zone of ground water. Relevant portion of the report reads as follows:

“6.0 Conclusion: The challenge to day is to conserve wetlands and which can ensure that the benefits of the wetlands are made available on a long term basis. Wetlands are productive and they can play a central role in creating sustainable development. The members of the Committee as appointed by the Hon’ble Appellate Authority express the same views as the IW MED & Fisheries Department, Government of WB regarding characteristics of the land. The members of the committee also intends that the vast wetlands should be conserved and preserved by the State Government and these wetlands act as a recipient water body where the treated sewage water is discharged under Ganga Action Plan. Moreover this vast wetland may act as a recharging zone of ground water.”

Fishing

In West Bengal, as in many other economically weaker parts of the world, use of wetlands for human subsistence is a time-old practice. A significant part of rural communities of West Bengal manage their subsistence from harvesting wetland products. Fish farming is easily the

most gainful commercial practice in the wetlands of this State and, in addition to that, there are vast expanse of low-lying swamps, marshes and basins which are occasionally densely vegetated with commercially-valuable reeds, sedges and other emergent macrophytes so often exploited by the rural people for livelihood support.

Fishing is the highly paid occupation of the fringe population of Khablir Bils, Bilkanda, Mahispota, Bodai and Talbanda. The Beels have potentiality to support large number of fishes. The landless fisherman, use the Bil for fishing during monsoon and post monsoon seasons and farmers cultivate the land for agricultural purposes during the rest of the year

Flood Moderation

The Khablir Bil, Bilkanda, Mahispota and Bodai Beels and other numerous wetlands serve as moderator of flood by accommodating the spillage.

We are now discussing the crux of the problem of destruction of wetlands in several parts of Barrackpore and Barasat Sub-Division of North 24-Parganas. Since the commissioning of Titagarh Thermal Power Station (TTPS) of CESC Ltd. in December 1982, the filling up of wetland and water bodies in Panihati municipal area and also its surrounding municipal and Panchayat areas by the fly ash generated from TTPS has become a regular event.

Furnishing below a news paper clipping which speaks for itself.

Fly ash chokes lakes

Archita Bhatta, TNN, Nov 16, 2001, 11.44pm IST (The Times of India)

Sodepur: Chief Minister Buddhadeb Bhattacharjee is worried about preserving the rapidly dying wetlands in and around Kolkata, but how far will he succeed in his efforts? The ash ponds of the titagarh thermal power plant are too small to accommodate about 1,300 tonnes of fly-ash which is generated every day. So the debris finds its way to the ponds and lakes in Amdanga, Bilkanda, Mahishpota, Tentultala, Netaji Pally, Sarda Pally and Sukanta Pally - all in sodepur. Local residents have protested vehemently and moved the green bench of the Calcutta High Court. The West Bengal Pollution Control Board, shocked at the manner in which wetlands were being dumped with fly-ash, recently issued strict instructions to stop filling up the waterbodies and also restore them. But once again, no one cared much. The WBPCB order said, "the CESC authority... Should not fill up any waterbody or wetland through its flyash unless specifically permitted by this board in accordance with law." The WBPCB also directed the CESC authorities to restore the wetland and waterbodies at Natun Rasta in Mahispota, Itkhola Pukur in Gholia and Ambagan in Sodepur "which have been destroyed by the CESC Ltd."

no one took much notice of the wbpcb's directions, so on october 4, the pollution body issued a show-cause notice asking the cesc to explain why legal action should not be taken against it for violating its earlier order and dumping fly-ash in the ambagan area. When contacted on friday, a cesc spokesperson said he would be able to comment on the matter only on monday. The relevant files would have to be checked, he argued. The wbpcb does not seem to be a very effective body. It has tried to clamp down on various cases of widespread pollution, but to little impact. Several industries came up in the mahishpota and bilkanda areas. A thermocol factory, a saw mill, a wbseb substation set up shop. The foundation of a private engineering college was also laid. Construction of a housing complex was also started and the wbpcb ordered all the units to shut shop. When TNN visited Mahispota recently, the thermocol factory, saw mill, the substation, the structures of the housing complex and the foundation of the private engineering college were standing intact. No one cared to follow the wbpcb's instructions. Also, an elaborate process of plastic recycling was underway in full swing at several water bodies. The plastic is left in the water for several days before being taken to other places to be processed into pellets. In the midst of unplanned industrialisation, the environment seems to be the first casualty.

Following are the directions issued by Calcutta High Court for protection of wetlands in question:

W. P. 7428 (W) of 2001

Mr. Pradip Kumar Das - For Petitioners

01/03/2002

Mr. Asim Kr. Halder - For S. P.

Mr. Aninda Mitra - For CESC
Mr. A. Chowdhury

Mr. M. C. Das - For W.B.P.C.B.
Mr. S. Banerjee

Supplementary affidavit filed by the CESC Limited today be kept with the records of this case.

The learned Counsel, for the petitioners, wants to give reply to the supplementary affidavit. He may do so within two weeks from today.

The S. P. will see that the wetland/water bodies are not filled up with fly ash by CESC Limited or any other Company in or around that area.

Report filed by the P.C.B. be kept with the records of this case.

Let this matter stand adjourned till 22.03.2002.

Let xerox plain copies of this order, duly counter-signed by the Assistant Registrar (Court), be handed over to the learned Counsels, for the respective parties.

Sd/-

(Ashok Kumar Mathur, C.J.)

Sd/-

(Subhro Kamal Mukherjee, J)

News paper clipping on the issue

The wetlands destruction and judicial interference in Natagarh, Mohishpota, Muragacha and Jugberia — under the Ghola police station of north 24-parganas.

The Telegraph | Tuesday, March 16, 2004 |

Landfill leash on lodgings - Green Panel Slaps Stop-Work On Mega Housing Estate In Suburbs - Tamal Sengupta

The West Bengal Pollution Control Board (WBPCB) has stopped construction of one of the largest housing projects at Ghola, on the city's northern fringes, after complaints that a vast water body was being filled up. The complex, named Deb Rupayan Nagar, is in North 24-Parganas. The water body occupies more than seven acres of a total of 70 acres being developed by a private finance company. "We have refused to issue a no-objection certificate to the developer concerned and asked him to pull down immediately all billboards and advertisements inviting prospective buyers," said Biswajit Mukherjee, senior WBPCB law officer. Mukherjee said on Saturday that officials of the local Ghola police station have been asked to ensure that no further construction comes up on the site. "Any attempts to destroy the water body will be considered a crime under the Water Act of 1974 and we are determined to deal firmly with such cases. If construction work is not stopped, we'll snap the power lines to the developer's office," he warned. The Ghola project is one of the largest in which the developer has started filling up such a vast water body. Moreover, the proposed township is coming up without any permission from the district magistrate and officials of the land and land reforms department. Acting on the WBPCB's directive, North 24-Parganas district magistrate H.K. Dwivedi has asked the sub-divisional officer of Barrackpore to take necessary action and stop construction work immediately. Officials of Deb Rupayan Housing Finance Ltd, which is promoting the project, denied any attempt to fill up the water body and said they would apply afresh for a no-objection certificate. Sekhar Debnath, managing director, admitted that the green body had turned down his firm's plea to carry on construction. "However, we have made it clear that no water body is being filled up for the project. The water body stays intact," he asserted. According to Debnath, the company will donate nearly three acres to the local panchayat samity for the construction of a hospital and another 1.5 acres for an educational institution. Land on which the project is coming up comprises four mouzas — Natagarh, Mohishpota, Muragacha and Jugberia — under the Ghola police station of North 24-Parganas. The project will include an administrative building, a community hall, banks and post offices, an ayurvedic research park-cum-training institute, an electric transformer station and an artificial water body to aid fire-fighting.

What is fly ash? Fly ash is a fine powdered byproduct of coal based thermal power stations collected from Electro Static Precipitators. More precisely the ash, which flies into the atmosphere, is classified as 'fly ash'. As fly ash is the waste product of thermal power plants there are specific guidelines by the Ministry of Environment & Forests for its disposal. TTPS has never complied with those guidelines and flouting the guidelines ceaselessly. Numerous water bodies thus disappeared by such unabated dumping of fly ash with resultant environmental degradation and creating health hazard to the surrounding population by way of silicosis - lung fibrosis caused by the inhalation of fine dust particles of fly ash - containing high percentage of silica - approximately 60 percent. Worse still, the fly ash that is being used as the landfill contains harmful metals which can leach into the ground water; hence its use in land filling is prohibited by Union Government guidelines on environmental protection. Thus it is well recognized that indiscriminate disposal fly ash leads to devastation of the environment and contamination. **Historically, the nature and value of Earth's life support systems have largely been ignored until their disruption or loss highlighted their importance. We abuse land because we regard it as a commodity belonging to us. When we begin to see land as a community to which we belong, we may begin to use it with love and respect.**

As with other natural systems, India's wetlands are in imminent danger of extinction as consequence of thoughtless and unplanned development in addition to population pressure. With deep concern over the destruction of wetlands and water bodies the local people represented the matter through series of letters for the last twenty six (26) years to various law enforcing authorities such as the concerned civic authorities, District Magistrate of North 24-Parganas, ADM & DL & LRO of North 24-Parganas, West Bengal Pollution Control Board, Central Pollution Control Board, National Human Rights Commission and Ministry of Environment & Forests, Government of India for enforcement of law but the authorities are somewhat remiss in the performance of their statutory obligations to control pollution and stop environmental degradation.

Even the Judicial intervention could not find any headway in the matter.

Shri M.C. Mehta, Senior Lawyer, Supreme Court of India had filed the Writ Petition (C) No. 3727 of 1985 in the Supreme Court of India against the Union of India and Others in the matters connected with the pollution by the industrial units. The said Writ Petition was called for hearing on 10 October 1995 in the Court No.2 comprising Hon'ble Mr. Justice Kuldeep Singh and Hon'ble Mr. Justice K. S. Paripoornan. Shri Kapil Sibal, learned senior counsel appearing for the CESC Unit: Titagarh Generating Station and others, had stated that "the problem of fly and bottom ash is only in Titagarh Unit". The learned Senior counsel had assured the Hon'ble Court on the date of the hearing, i.e., 10 October 1995, that the "Units are in the process of setting up a unit which will concert the fly and bottom ash into

bricks the process will take about two years to complete” (vide the Record of Proceedings of the Writ Petition (C) No. 3727 of 1985, the Supreme Court of India, Court No. 2, Item No.3).

We are constrained the mention that despite the above cited solemn assurance given to the Hon’ble Supreme Court of India, the respondent, CESC, has made no discernible progress till date in fulfilling it.

There is a long standing nexus between a vicious chain of real estate developers / land mafia of the vast region of Barrackpore Sub-Division and the authorities of TTPS and this combined force is creating havoc in destroying wetland and water bodies **despite specific Orders issued to CESC Limited by the Hon’ble Calcutta High Court and Paribesh Adalat of West Bengal Pollution Control Board.**

Indiscriminate dumping of fly ash has destroyed numerous water bodies. These ponds and water bodies form important common water resources for the people of the area who are solely dependent on them for water. For the last twenty one (21) years at least three hundred (300) tanks/water bodies have been filled up with fly ash illegally in the Panihati municipal area alone which includes the well-known Itkholapukur - Comprising Plot Nos.12/731, 13/732 and 14/733 (three tanks as recorded in R.O.R. situated in a row), Mouza Ghola - approximately four bighas located in between Chanditala and Ramkrishna Park, Ward No.33. Local people sharply reacted against the filling up of the tanks and lodged series of complaints to various law enforcing authorities to stop the illegal activities.

Acting on the complaints of local people the Chairman of Panihati Municipality issued a Statutory Notice on 29/02/1988 under the provisions of T&CP Act, 1979 for stopping fly ash filling in ITKHOLA PUKUR and restoring filled up tanks to its original condition by its owner-cum-land broker Mr. Biswanath Banerjee. On 06/04/1993 the same Panihati Municipality issued a letter to the ADM & DL&LRO, North 24-Parganas clearly affirmed: “tanks be kept undisturbed for betterment of the environment, since the tanks act as lungs of the fast increasing congestion in the area due to abnormal increase in population in the area during recent times.”

As the matter stands the Chairman of the Panihati Municipality is very reluctant to implement it own obligation. However it is important for the local communities to be involved in the protection of wetlands.

Thus further acting on the complaints of local people against filling up of wetlands, the reclaimed lands of above Plot Nos. had been vested in the Government vide order dated 24/08/1993 of ADM & DL&LRO, North 24-Parganas, in Case No. 11 of 1992. This Order was challenged by the owner of filled up tanks (Biswanath Banerjee) before Hon’ble Calcutta High Court but the matter was sent back to Divisional Commissioner, Presidency Division

for judgement when the Divisional Commissioner passed an Order on 17/04/2000 in Appeal Case No. 6/93-94 for maintaining status quo.

Thereafter the offender moved the matter before West Bengal Land Reforms and Tenancy Tribunal vide Case No.O. A. No.1222/2000 (Biswanath Banerjee Versus the State of W. B. & Others) but he did not make us a party which amounted to major fraud on the part of Biswanath Banerjee. The Hon'ble LRTT passed order on 1st March 2001 that vesting the plots under section 4(4) of L&LR Act is ultra virus and quashed the vesting order and given liberty to the ADM & DL & LRO to take action under the other provisions of the Act that means the offence of filling up tanks is not denied.

Armed with the order of the Hon'ble LRTT dt. 01/03/2001 Biswanath Banerjee started construction on the reclaimed land in March 2001. We (Santi Roy & Ors.) then took up the matter with WBPCB, NHRC and Calcutta High Court. Hon'ble High Court converted our letter dt.17/05/2001 into a writ vide No.W.P. 7428 of 2001 and treated as Public Interest Litigation. In the meantime WBPCB inspected the areas that were filled up by the fly ash generated in TTPS of CESC Limited along with Central Pollution Control Board on 30/05/2001, declared the areas as wetland and issued Direction to CESC Limited on 15/06/2001 for restoration of the water bodies/wetlands within three months. Decision on the matter is still pending and now being heard analogously with the Appellant Industries that set up their units on Bilkanda Mahispota wetlands. Names and Writ Nos. of the Appellant Industries are mentioned hereinafter.

The continued destruction of wetland is causing immense hardship to the general public and also creating a grave environmental and human health hazard. Civilization still depends on the natural environment not only for energy and materials but also for vital life-support systems such as air and water cycles. Water is a very critical component of environment without which survival of organisms is impossible. Harmony between man and environment is the essence of healthy life and growth. Therefore, maintenance of ecological balance and a pristine environment has been of utmost importance. The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate. **It needs to be mentioned once again that water and air are the prime requirements for survival of any life on the earth.**

Without sufficient water we cannot grow enough crops and support industrial growth, or develop a growing tourism industry. Our economy is therefore totally dependant on a continual supply of water of sufficient quality and quantity. It is in this context, the above wetlands are of great socio-economic importance in terms of fish, fodder, fuel and water supply. A large population living in and around the wetlands depend upon the wetland for

resources sustenance. With declining employment in the industrial sector and the growth of the informal sector, the urban poor and low-income families are increasingly shifting towards urban agriculture for survival. Urban agriculture should be given more attention for its potential to support a sustainable urban environment, generating employment.

These wetlands harbour a wide diversity of flora and fauna and are suitable niches for migratory birds and fishes. Wetlands play a vital role in managing water such as purifying it, attenuating floods, regulating river flow, and recharging groundwater sources. Their health is therefore critical to sustainable development. They are also vital for biodiversity protection, tourism, environmental education, grazing, subsistence agriculture and as a source of food and plant materials for rural communities. In case of West Bengal, most of the lands in the beel area are always put to agricultural use, sometimes for a particular time of the year. With declining employment in the industrial sector and the growth of the informal sector, the urban poor and low-income families are increasingly shifting towards urban agriculture for survival. Urban agriculture and pisciculture should be given more attention for its potential to support a sustainable urban environment, generating employment and social welfare. Thus the vast sizes of the present wetlands have an enormous monetary value with its rich biodiversity.

Last but not the least the Department of Environment; Government of West Bengal in its website on **Wetland Conservation** has affirmed the following directive which is annexed as **Annexure–XIV**:

- **to look for opportunities and establish avenues for income and employment augmentation of the people depending on wetlands ; and**
- **to achieve, in the process, sustainable utilization of wetlands throughout the State so that these may yield the greatest continuous benefit to present generation while maintaining their potential to meet the needs and aspiration of future generations.**

Relevant portion of **Policy Statement of Government of West Bengal on Environmental Protection and Conservation of Natural Resources** (annexed as **Annexure–XV**) are also enumerated below:

“3.3 Rivers, reservoirs, water bodies and watersheds in the State will be protected from encroachments maintained and developed for ecological balance to provide for agriculture, irrigation, industrial, drinking and other civic purposes; ”

Apart from all the above facts that India being a developing country supporting the second largest population in the world, having mainly agrarian economy, has a significant impact on

all natural resources including that of wetlands. It is in this context, wetlands should enjoy complete protection. To protect and improve the environment is a constitutional mandate. It is a commitment for a country wedded to the ideas of a welfare State. The Constitution has laid the foundation of Articles 48-A and 51-A for a jurisprudence of environmental protection. Today, the State and the citizen are under a fundamental obligation to protect and improve the environment, including forests, lakes, rivers, wildlife and to have compassion for living creatures. It has always to be remembered that wetlands, water bodies, lakes, tanks and rivers are permanent assets of mankind and are not intended to be exhausted in one generation.

With the above background we state and reiterate that the vast areas of Khablir Bil, Bilkanda, Mahispota, Bodai and Talbanda Bils may be declared/notified as wetland of National Importance as has been done in the case of East Calcutta Wetland and accordingly necessary steps may be taken for their restoration in line with the Judgement passed by the Hon'ble Pollution Control Appellate Authority (W.B.) on 23.09.2003. For achieving the above goal and its proper conservation and protection active participation and monitoring are required by Department of Environment, West Bengal Pollution Control Board, Institute of Wetland Management & Ecological Design, Land & Land Reforms Department, Irrigation Department, Fisheries Department, Government of West Bengal, District Authority and the National Wetland Committee, Government of India.

ANNEXURE

Appeal Case Nos. in Appellate Authority and Writ Nos. in High Court

| Sl. No. | Name of the Appellant Industries | Case No. in Appellate Authority | Case No. in Calcutta High Court | Remarks |
|---------|----------------------------------|---------------------------------|---------------------------------|---------|
| 1 | Techno Gases & Carbonic | A-46/2001 | W.P. 19350 of 2003 | |

| | | | | |
|---|--|-----------|-----------------------|---|
| 2 | Das Solvent Enterprise | A-47/2001 | - | Not filed application in High Court |
| 3 | Eskay Kaycee Industries Private Limited | A-48/2001 | W.P. 19434 of 2003 | |
| 4 | Bhattacharyya Industrial Works | A-49/2001 | W.P. 19431 of 2003 | |
| 5 | Subham Plastics Industries | A-50/2001 | W.P. 19432 of 2003 | |
| 6 | Asian Wood Industry | A-51/2001 | W.P. 19433 of 2003 | |
| 7 | Debrupayan Housing Finance Limited (DHFL) Till date DHFL has not received any clearance from any authority for their massive housing project – township project in Bilkanda and Mahispota | A-18/2002 | W.P. 5431 (W) of 2004 | Collector to pass final order and the writ has been dismissed |

Sl. No. 1, 3, 4, 5 an 6 are now being heard analogously with W.P. 7428 (W) of 2001 by the Hon’ble Environment Bench of Calcutta High Court