

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

**M.A. 1019/2016/EZ  
IN  
O.A. 31/2015/EZ**

**ODISHA STATE POLLUTION CONTROL BOARD  
VS  
BISHNU PRASAD MISHRO & ORS**

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

**PRESENT: Applicant in MA : Mr. N.C. Bihani, Advocate  
Mrs. Papiya Banerjee Bihani, Advocate  
Respondents : None**

<b>Date &amp; Remarks</b>	<b>Orders of the Tribunal</b>
<p><b>Item No. 7 27<sup>th</sup> May, 2016.</b></p>	<p>By filing this application, the Odisha State Pollution Control Board seeks clarification of our order dated 7.4.2016 passed in the OA whereby it had been directed to take action in accordance with law against the illegal brick kilns operating in the State of Odisha having been categorised as C and D by applying the same principle adopted in the case of illegal brick kilns in the State of West Bengal.</p> <p>Mr. Bihani, Ld. Adv. appearing on behalf of Odisha State PCB, submits that in the list of brick kilns provided by the District Magistrate, Ganjam district, all kinds of brick kilns had been included i.e. Clamp type, moving chimney type and fixed chimney type and thus far, the PCB has been dealing with fixed chimney type brick kilns as it is the only type permitted under the law. It is submitted that confusion has arisen on the action to be taken against other two types, those</p>

being impermissible under the rules.

We do not find any reason as to why there should be any confusion. By our order dated 7.4.2016, the State PCB had been given liberty to pass orders as per law, the only rider being that the quantum of environmental compensation assessed by us shall be borne in mind while dealing with the illegal kilns.

If the other types of brick kilns i.e. Clamp Type and Moving Chimney Type are not permissible, the PCB possesses the power to take action for closure of those but order of closure if passed will not exonerate the persons running such brick kilns from the purview of environmental compensation. The fact that they had been running the brick kilns without necessary consents under the law until the order dated 7.4.2016 was passed, is undisputed and, therefore, the natural corollary is that they had been contributing to air and water pollution for want of appropriate measures which would have prescribed in the consent orders, had they obtained it.

In view of this, we direct the Odisha State PCB to act in accordance with law as clarified above.

With this, this application stands disposed of.

No order as to costs.

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Justice S.P.Wangdi, JM

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

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