

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(Through Video Conferencing)**

Original Application No. 54/2020/EZ

Subash Mohapatra

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 10.08.2021

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) :Mr. Sankar Prasad Pani, Advocate

For Respondent(s) :Mr. Jana Kalyan Das, Sr. Advocate a/w Mr.  
Shashwat Sarin, Advocate for R-8  
Mr. S.K. Nayak, AGA for R-1,2&4  
Mr. Gora Chand Roy Chowdhury, Advocate for R-  
5&7  
Mr. Dipanjan Ghosh, Advocate for R-6

**ORDER**

1. Mr. Sankar Prasad Pani, learned Counsel for the Applicant is present.
2. Mr. Jana Kalyan Das, learned Senior Counsel assisted by Mr. Shashwat Sarin for Respondent No.8-M/s Sum Hospital, Mr. S.K. Nayak, learned Additional Government Advocate for Respondent No.1-State of Odisha, Respondent No.2-Forest and Environment Department, Government of Odisha and Respondent No.4-District Collector, Khurdha, Mr. Dipanjan Ghosh, learned Counsel for Respondent No.6-Odisha State Pollution Control Board and Mr. Gora Chand Roy Chowdhury, learned Counsel for Respondent No.5-State Environment Impact Assessment Authority (SEIAA), Odisha are present.
3. Issue notice to Respondent No.3-Bhubaneswar Development Authority, returnable within four weeks.
4. Joint Committee Report dated 09.04.2021 which is on record mentions in its conclusion vide para 8 (ii) that: *Since, the Hospital components (Clinical) of Medical University with built-up area less than 20,000 m<sup>2</sup> as*

*per approval letter of BDA stated as above, they also do not require Environmental Clearance as per amended EIA Notification, dated 22<sup>nd</sup> December, 2014. Moreover, the notification is silent about the requirement of Environmental Clearance for a building project with built-up area more than 20,000 m<sup>2</sup> where both clinical area as well as Non-clinical (teaching) area are situated in the same building premises of the Hospital. The MoEF&CC, Govt. of India has to clarify whether an Environmental Clearance is required for the above project or not where both Clinical area as well as Non-clinical (teaching) area are situated in the same building premises of the Hospital. This report also mentions that since the total construction area has not exceeded 150,000 m<sup>2</sup> they do not require Environmental Clearance for the entire project.*

5. Mr. Gora Chand Roy Chowdhury who is present for the Respondent No.7-MoEF&CC shall examine the matter and seek instructions from the Respondent No.7 (MoEF&CC) and file his affidavit with regard to the observations of the Joint Committee Report and the conclusions thereto. At one place in the committee report, it is mentioned that the construction made by the Respondent No.8 is about 68012.05 m<sup>2</sup> prior to 14.09.2006 i.e. the date of EIA Notification and after 14.09.2006 the built up area is 10072.52 m<sup>2</sup> and because it is less than 20,000 m<sup>2</sup> Environmental Clearance is not required. We fail to understand as to whether the requirement of the Environmental Clearance is relative to an area 20,000 m<sup>2</sup> or less than 150,000 m<sup>2</sup> or what. These two statements in the report are self contradictory
6. Respondent No.7 is therefore, directed to file detailed affidavit point by point with regard to the observations and conclusions of the Joint Committee Report by the next date of listing.
7. The Committee Report also mentions that the Bhubaneswar Development Authority is also required to give its inputs/views on the matter related to built up area, construction activity and bifurcation of clinical area and non-clinical (teaching) area.

8. The Committee Report also mentions that the Bhubaneswar Development Authority has regularized the **unauthorized/deviated** construction made by the proponent by way of compounding vide letter dated 16.11.2019 for an total built-up area of 1,37,706.78 m<sup>2</sup> for Hospital and ancillary facility.
9. Bhubaneswar Development Authority in its affidavit shall explain as to how construction made illegally has been regularized. Let the affidavit be filed within four weeks.
10. No objection has been filed by the Applicant till date to the Joint Committee Report even though time was granted on the previous date.
11. **List on 17.09.2021.**

.....  
B. Amit Sthalekar, JM

.....  
Saibal Dasgupta, EM

August 10, 2021  
O.A. No. 54/2020/EZ  
MN