

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.87/2023/EZ

Abhiram Baskey and Anr.

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 10.08.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Pratik Dash, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Dipanjan Ghosh, Advocate for R-5 (in Virtual Mode),
Ms. Rashmi Singhee, Advocate for R-6 (in Virtual Mode),
Ms. Papiya Banerjee Bihani, Advocate for R-7 (in Virtual Mode)

ORDER

1. Mr. Pratik Dash, learned Counsel is present (in Virtual Mode) for the Applicants.
2. The Applicants in the present Original Application are seeking a direction to the Respondents to demolish the construction/ boundary wall made over the river sand bed by Respondent Nos.14 to 16 and 19 and also quash the Consent to Operate (CTO) and Consent to Establish (CTE) granted in favour of the private Respondents.
3. The allegation in the Original Application is that the Respondent Nos.14 to 16 and 19 have illegally encroached upon the river bed of River Subernarekha by running a plastic factory Unit and coal depot thereby reducing the natural flow of river water and obstructing the passage of flood embankment. It is alleged that the said respondents are damaging the environment i.e. the river ecosystem of River Subernarekha at Sekhsarai Mouza under Jaleswar Tahasil bearing Khata No.142, Plot No.2, Kisam-Nadi, measuring an area of 04 Acres

by discharging effluents and waste water into the river. It is also alleged that the said respondents have constructed a concrete boundary wall thereby reducing the natural flow of water and obstructing the passage of flood embankment.

4. It is stated that the Respondent No.14, Biswanath Paul, has been issued Consent to Establish (CTE) by the Odisha State Pollution Control Board dated 03.03.2011 in the name of M/s Pal Enterprisers to set up mineral stockyard for storage, trading and transportation of coal of quantity 500 MT/month at Sekhsarai on Plot No.403 and 404/820 of Khata No.140/132, total area of 0.17 Acres.
5. It is also stated that the Respondent No.16, Deepak Kumar Paul, Managing Partner of M/s Paul Associates, has obtained Consent to Operate (CTO) dated 13.04.2021 from the Odisha State Pollution Control Board. It is alleged that the Respondent Nos.14 to 16 are carrying out illegal operation of coal depot/stockyard for ten years after obtaining the Consent to Establish (CTE).
6. It is also alleged that for obtaining Consent to Establish (CTE) of M/s Keshab Plast, owned by Respondent No.16, Deepak Kumar Paul, a proprietorship concern, the Odisha State Pollution Control Board has granted Consent to Establish (CTE) vide its order dated 19.11.2018 in respect of Khata No.140/132 for plant facilities and production capacities: PVC Board-0.75 MT/month at Sekhsarai Mouza, Plot No.404/820 under Tahasil Jaleswar, District Balasore.
7. It is stated that the Odisha State Pollution Control Board has also granted Consent to Operate (CTO) dated 19.11.2018 to M/s Keshab Plast, owned by Respondent No.16, Deepak Kumar Paul.
8. It is alleged that the Consent to Establish (CTE) has been granted to both the Units i.e. M/s Paul Associates and M/s Keshab Plast, for

the same plots namely Plot No.403, Kisam-Gharbari (house purpose), Area 0.11 dec. and Plot No.404/820, Kisam-Gharbari (house purpose), Area 0.6 dec.

9. It is alleged that initially the Consent to Establish (CTE) was obtained for coal depot over Plot No.403 and 404/820 on 03.03.2011 and on 19.11.2018 the Consent to Establish (CTE) was obtained for plastic factory in the name of M/s Keshab Plast, over Plot No.404/820 which makes it clear that the Consent to Establish (CTE) has been granted without proper enquiry.
10. In our opinion, matter requires consideration.
11. Issue notice to the Respondents, returnable within four weeks.
12. Mr. Dipanjan Ghosh, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.5, Central Pollution Control Board.
13. Ms. Rashmi Singhee, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.6, State Environment Impact Assessment Authority, Odisha.
14. Ms. Papiya Banerjee Bihani, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.7, Odisha State Pollution Control Board.
15. Issue notice to the Respondent Nos.1 to 4 and 8 to 19, returnable within four weeks.
16. All the Respondents shall file their counter-affidavits within four weeks.
17. Considering the allegations made, we deem it appropriate to constitute a Committee comprising of the following Members: -
 - (i) Senior Scientist, Odisha State Pollution Control Board;
 - (ii) Senior Scientist, Central Pollution Control Board;

- (iii) District Magistrate, Balasore, or his nominee not below the rank of Additional District Magistrate, Balasore; and
 - (iv) Senior Scientist, State Environment Impact Assessment Authority (SEIAA), Odisha.
18. The office of the District Magistrate, Balasore, shall be the Nodal Body for all logistic purposes and for filing the Inspection Report of the Committee on affidavit.
 19. The Committee shall visit the site within ten days and submit its report within a further one month with respect to the allegations made in the Original Application and if violations are found initiate appropriate action as per law against the violators and also determine Environmental Compensation.
 20. The learned Counsel for the Applicant shall serve e-copy/soft copy of the Original Application along with all its Annexures upon Mr. Dipanjan Ghosh, Ms. Rashmi Singhee and Ms. Papiya Banerjee Bihani, learned Counsel for the Respondents within 24 hours.
 21. **List on 21.09.2023.**

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

August 10, 2023,
Original Application No.87/2023/EZ
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