

**APPELLATE AUTHORITY
UNDER THE AIR (P.C.P.) ACT, 1981, ORISSA,
BHUBANESWAR**

APPEAL NO.10-A OF 2007

An appeal under section 31 of the Air (Prevention and Control of Pollution) Act, 1981.

Shankar Oram Appellant

V e r s u s

Member-Secretary,
State Pollution Control Board,
Orissa & another ... Respondents

For Appellant : S/Shri B. P. Tripathy,
Ramdas Achary & R. N. Mohanty,
Advocates

For Respondents : Shri B. P. Pattajoshi,
Law Officer, S.P.C.B. &
Shri Bhimsen Sahoo,
Advocate

QUORUM :

HON'BLE SHRI JUSTICE B. P. DAS, CHAIRMAN,
PROF. G. B. BEHERA, MEMBER
AND
DR.C.R. MOHAPATRA, MEMBER

Date of Judgment : March **29**, 2008

B. P. Das, Chairman : Appellant-Shri Shankar Oram, who is a former M.L.A and a resident of Rourkela town in Sundargarh district, claiming himself to be interested in the environmental issues, has filed this appeal under section 31 of the Air (Prevention and Control of Pollution) Act, 1981

(in short 'the Air Act') praying to set aside the order passed by the State Pollution Control Board, Orissa, hereinafter called 'the Board', granting consent in favour of respondent no.2-M/s.Shree Hari Sponge Pvt. Ltd. to establish and to operate the Sponge Iron Plant at Kendrikala, P.O. Bonai, in Sundargarh district and to restrain the industry from operating.

2. According to the appellant, the Board by Office Memo. dated 22.8.2005 granted consent to establish the aforesaid Sponge Iron Plant for manufacture/production of 5000 MTs of sponge iron per month with capacity of 2 x 100 Tonnes Per Day DRI Kilns, vide Annexure-1, and after finally inspecting the industry on 30.11.2006, the Board by memo. dated 24.3.2007 granted consent to operate the plant under section 21 of the Air Act till 31.3.2007, vide Annexue-6. It is alleged that despite several inconsistencies and inadequacies in the pollution control measures, the Board has granted consent to operate the unit under section 21 of the Air Act. It is also alleged that the inspection was done in a perfunctory manner and basing upon such inspection the Board granted consent to operate in favour of the industry without proper verification of the adequacy of the pollution control measures.

3. Notice on the appeal was issued to the respondents. Respondent no.1-Board has appeared through its Law Officer and respondent no.2 is represented by Shri Bhimsen Sahoo, Advocate.

4. The Board by the memo dated 1.3.2008 has submitted copy of the inspection report dated 18.2.2008 along with the analysis result of the stack monitoring and AAQ monitoring quality.

5. Respondent no.2 has filed a show cause reply in which several grounds have been taken including the one that the appellant has no locus standi to file this appeal. As to the merit of the appeal, the allegations made by the appellant have been denied. Though this appeal has been filed beyond the period of limitation, since the appeal

involves an important issue of locus standi of the appellant to file this appeal and similar question is very often raised before this authority for consideration, we condone the delay in filing this appeal to decide the aforesaid issue.

6. As to the locus standi of the appellant to file this appeal, we have decided such question by the judgment rendered today in Appeal No.11-A of 2007, which was filed by the same appellant against another sponge iron unit, namely, M/s.Nixon Steel and Power Ltd. located in the same district of Sundargarh. In the aforesaid judgment, we have held in paragraph 13 as follows :-

In our considered opinion, the intention of the statute is very clear and it allows any person aggrieved by an order made by the State Board to file an appeal within thirty days from the date on which the order is communicated to him. So, in case a member of general public ultimately who takes the burn of the air pollution wants to ventilate his grievance, in our considered opinion, should approach the Board drawing its attention to the deviation, if any, in the consent conditions as well as the standards of emission laid down by the Board in relation to each such consent. If the Board does not take any action on the same or the Board passes an order on the same by which the complainant is aggrieved, he can file an appeal under section 31 of the Air Act.”

Accordingly a third party can prefer an appeal before this Authority as indicated above.

7. The next question is whether the industry has violated the pollution control norms because of which the appellant is affected.

From the inspection report of the Regional Officer of the Board at Rourkela, who inspected the unit on 18.2.2008, it appears that the respondent industry has complied with the consent conditions and meets the standard of emission laid down in the consent order. In that view of the matter, we decline to grant the relief sought by the appellant.

It is pointed out by the learned Law Officer of the Board that the application for extension of consent to operate after 31.3.2007 submitted by the industry is pending with the Board. In view of this, we direct the Board to consider the matter and take a decision on the same, if the same is still pending.

The appeal is accordingly disposed of.

Sd/-

.....

**Justice B. P. Das,
Chairman**

Prof.G.B.Behera : I agree.

Sd/-

.....

**Prof. G. B. Behera,
Member**

Dr.C.R.Mohapatra : I agree.

Sd/-

.....

**Dr.C.R.Mohapatra,
Member**

Date : March 29, 2008.
P.C.Chhatoi, Sr.Secretary