

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

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APPEAL NO.9-A OF 2007

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

Karunakar Samal  
and another

.....

Appellant

V e r s u s

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

... ..

Respondents

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

For Respondents : Shri B. P. Pattajoshi,  
Law Officer, S.P.C.B. &  
Mrs.Renu Gupta, Director,  
Ardee Hi-Tech Pvt. Ltd.

QUORUM :

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

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Date of Judgment : April **19** , 2008

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B. P. Das, Chairman :

The appellants are the residents of village Kankili under Talcher Police Station of Angul district. They have filed this appeal under section 31 of the Air (Prevention and Control of Pollution ) Act, 1981 ( in short 'the Act' ) challenging Consent Order No.2475 dated

24.10.2007 passed by the State Pollution Control Board, Orissa, according consent to operate the Coal Washery (dry coal beneficiation plant) established by respondent no.2-M/s.Ardee Hi-Tech Pvt. Ltd. in village Kankili and praying to set aside the said Consent Order and to restrain the company from operating the plant.

2. Admittedly the appellants have filed this appeal directly before this Authority, inter alia, alleging that they have been affected due to non-adherence of the pollution control measures by the respondent no.2 company.

3. As there was some controversy as to whether a member of general public can maintain an appeal under section 31 of the Act before this Authority, we admitted this appeal to resolve the said issue after hearing the respondents. The respondents filed their written objections denying/disputing the allegations made by the appellants in the appeal memo. and we heard learned counsel for the appellants and learned Law Officer for respondent no.1-State Pollution Control Board. Respondent no.2-company was represented by its Director Mrs.Renu Gupta.

4. The question of maintainability of an appeal under section 31 of the Act before this Authority by general public affected by the deviation in the consent conditions as well as the standards of emission laid down by the Board in relation to each such consent is no more res integra in view of the judgment rendered by this Authority in ***Appeal No.11-A of 2007 ( Shankar Oram v. Member-Secretary, State Pollution Control Board, Orissa & another)*** on 29.3.2008, wherein after examining the statutory provisions we have held that a public can approach this Authority under the circumstances indicated therein. In paragraph 13 of the said judgment, we have held as follows :

13. 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.”

The appellants have directly come to this Authority and have not ventilated their grievances before the Board.

5. It would be worthwhile to indicate here that the villagers of Kankili had earlier approached the Hon’ble High Court of Orissa in W.P. (C) No.1448 of 2006 seeking a direction to stop construction work of the aforesaid coal washery plant in their village and the Hon’ble High Court disposed of the said writ petition with the following order :

In that view of the matter, this Court disposes of this writ petition with the observation that if in the matter of establishment of plant opposite party no.5 makes any departure from the terms and conditions which have been indicated by the State Pollution Control Board, the said Board will immediately take necessary action against opposite party no.5. The Court also makes it clear that if the petitioners are in any way aggrieved by any action of opposite party no.5 in establishing the aforesaid plant, they are at liberty to bring the same to the notice of State Pollution Control Board and the Board will take appropriate steps against opposite party no.5 in accordance with law.”

6. In view of the judgment rendered by us in Appeal No.11-A of 2007, we hold that this appeal is not maintainable and is

accordingly dismissed. It is open to the appellants to approach the Board for redressal of their grievance, if any, in accordance with law.

**Sd/-**

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

Prof. G. B. Behera : *I agree.*

**Sd/-**

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

Dr.C.R. Mohapatra : *I agree.*

**Sd/-**

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

Date : **April 19** , 2008.  
*P.C.Chhatoi, Sr.Secretary*