

**APPELLATE AUTHORITY
UNDER THE AIR (PCP) ACT, 1981,
ORISSA, BHUBANESWAR**

APPEAL NO.18 A / T OF 2006

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

Sri Surendra Pradhan, Managing Partner,
M/s.Maa Baghei Stone Crusher,
At/P.O. Dadhimachhagadia,
Dist. Khurda

.....

Appellant

V e r s u s

State Pollution Control Board, Orissa,
Bhubaneswar

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Respondent

For Appellant : S/Shri Sangram Rath
& B. R. Mohanty

For Respondent : Shri B.P.Pattajoshi,
Law Officer, S.P.C.B.

QUORUM :

**JUSTICE SHRI B. P. DAS, CHAIRMAN
AND
DR. C. R. MOHAPATRA, MEMBER**

Date of Judgment : December 16, 2006

The appellant, who is the Managing Partner of M/s. Maa Baghei Stone Crusher of village Dadhimachhagadia in Khurda district, has filed this appeal under section 31 of the Air (Prevention and Control of Pollution) Act, 1981(in short 'the Act') challenging the direction of the State Pollution Control Board, Orissa, (hereinafter 'the Board') dated 15.7.2006 (Annexure-7) for closure of the appellant's unit.

2. The aforesaid direction for closure has been issued on the ground that the unit has not complied with the siting criteria as the unit is located within a distance of one k.m. from the village and habitation and within 500 mtrs. from other stone crusher units and has, therefore, violated the siting criteria as notified by the State Govt. in the Forest & Environment Department in Notification no.9507 dated 13.5.1998.

3. So far as the siting criteria regarding the distance of the appellant unit from other units is concerned, it is stated by the Law Officer appearing for the Board that in the meantime the State Govt. in Forest and Environment Department by Notification no.13091 dated 1.8.2006 has modified its earlier notification dated 13.5.1998 by omitting the siting criteria relating to distance from crusher unit to crusher unit. Hence the aforesaid notification dated 13.5.1998 prescribing the siting criteria in regard to distance from other stone crusher units is no more applicable to the appellant.

During pendency of this appeal, the appellant has filed an application annexing thereto the letter dated 12.12.2006 of the Addl. District Magistrate of the District Office, Khurda, addressed to the Member-Secretary of the Board intimating that the appellant's crusher unit is at a distance of one k.m. from N.H.-5 and about one k.m. from the nearest village-Dadhimachhagadia and that there is no educational institution within wanting distance from the appellant's crusher unit besides enclosing therewith the required sketch map. From the aforesaid, it appears that the appellant's unit has complied with the siting criteria.

4. In view of the aforesaid facts, there is no need to keep this appeal pending any further. We, therefore, dispose of this appeal with a direction to the Board to take appropriate action on the application stated to have been filed by the appellant for grant of consent to

operate, if the same is in order.

5. The appeal is disposed of accordingly.

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Dr.C.R.Mohapatra,
Member

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Justice B. P. Das,
Chairman

Chhatoi/16.12.2006