

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.7226 OF 2022

Asit Kumar Mohanty & ors.

....

Petitioners

Ms.D.Mahapatra, Adv.

-versus-

Union of India & ors.

....

Opposite Party(s)

Mr.U.K.Sahoo, ASC

Ms.S.Patra, CGC

**CORAM:
JUSTICE BISWANATH RATH**

**Order
No.**

**ORDER
31.3.2022**

1. 1. Heard learned counsel for the Parties.
2. 2. The Writ Petition involves the following prayer :-

“Under the facts and circumstances as narrated above, this Hon’ble court may graciously be pleased to admit this writ petition, issue Rule Nisi to the opposite parties and if the opposite parties will fail to show cause or shown insufficient cause made the said rule absolute by directing the opposite party no.2 not to issue any license in favour of opposite party no.9 for setting up of a new petrol pump as per Annexure-5 and further be pleased to quash the no objection certificate granted by the opposite party no.5 under Annexure-5..”
3. 3. Taking this Court to the condition criteria at Page-51 of the Brief involving the Central Pollution Control Board Office Memorandum dated 7th January, 2020 and demonstrating through the Writ Petition, learned counsel for the Petitioner contended that

there has been grant of no objection certificate by the District Magistrate, Puri, vide Annexure-5 completely contradicting the requirement at Page-51 of the Brief being introduced by the Central Pollution Control Board. It is averred, in bringing such condition through the Office Memorandum, it also claimed that this Office Memorandum has also been marked to the Member Secretary, Orissa State Pollution Control Board appearing at Serial No.20 of Page-45 of the Brief and the Orissa State Pollution Control Board remains binding to the conditions settled therein. In this view of the matter, learned counsel for the Petitioners alleged that while granting no objection certificate in the locality having school, temple of World reputation, large and small houses in and around and more particularly, and district level hospital going to be operating with Medical College, the District Magistrate, Puri at least should have involved the Pollution Control Board Authority so as to see there is meeting with the condition criteria at Clause-H of the Office Memorandum dated 7th January, 2020. Further such issues also required involvement of public objection and participating and participation and installation of the nature of Institution will endanger the human living in such area. It is in the circumstance, there is an attempt to challenge the No Objection Certificate at Annexure-5 by way of this Writ Petition. This Court finds from

Page-51 of the Brief, the condition criteria fixed through the Office Memorandum dated 7th January, 2020 issued by the Central Pollution Control Board as follows :-

“H. Siting criteria of Retail Outlets:

In case of siting criteria for petrol pumps new Retail Outlets shall not be located within a radial distance of 50 meters (from fill point/dispensing units/vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per local laws. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals (10 beds and above) residential area designated as per local laws shall be less than 30 meters. No high tension line shall pass over the retail outlet.

These guidelines are supplementary to all existing relevant Rules, Guidelines, Orders etc.”

4. Copy of such Office Memorandum since issued also to the local Pollution Body, the condition therein also must bind such Parties. Looking to the allegation in the Writ Petition and the submissions made herein, this Court though finds the Petitioner has series of allegations but no attempt has been made as of now to the State Level Authorities involving such allegation. For the opinion of this Court, such allegations are at the first instance be examined by the Pollution Control Board Authority and/or the Green Tribunal created for the purpose in the minimum before this Court steps into such jurisdiction. In the process, this Court while declining to entertain the Writ Petition at this stage directs the Petitioners to

approach either the State Pollution Control Board or even to the Green Tribunal, as advised, at least within ten days. If a complain is made in due time, any of the Authorities addressed with such allegations, shall do well in considering the allegation of the Petitioners and taking decision in accordance with law giving opportunity to the Parties likely to be affected.

5. The Writ Petition stands disposed of accordingly.

M.K.Rout

