

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22769 of 2021

Kalyani Behera

Petitioner
....
Mr. S.S. Mohapatra, Advocate

-versus-

State of Odisha and others

Opp. Parties
....
Mr. B.P. Das, Advocate
Mr. B.P. Tripathy, Advocate for OP No.4

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK**

**ORDER
08.04.2022**

Order No.

- 03.
1. This is a second round of litigation by the present Petitioner concerning the alleged pollution caused by the operation of Opposite Party No.4 and in respect of which there was an order passed by this Court on 8th March, 2021 in W.P.(C) No.6664 of 2021.
 2. The State Pollution Control Board (SPCB), had pursuant to the above order of this Court, issued certain directions on 13th May, 2021. A reply has been filed on 13th November, 2021 by the SPCB *inter alia* pointing out that the 'consent to operate' granted to OP No.4 unit is valid only 31st March, 2022. Today learned counsel appearing for the SPCB states that OP No.4 has applied for renewal of the consent which is under consideration of the SPCB.
 3. Learned counsel for OP No.4 informs the Court that against the direction issued by the SPCB on 25th November 2021 modifying the conditions in the 'consent to operate', OP No.4 has filed an appeal before the Appellate Authority under Section 31 of the Air (Prevention and Control of Pollution) Act, 1981 which is stated to be pending. He

states that the present petitioner is also a party in the said appeal and notice has been issued to him as well.

3. Learned counsel for the Petitioner states that the unit is continuing to pollute. Learned counsel for OP No.4 states that he has no instruction whether the unit is still operational. Learned counsel for the SPCB states that an inspection will immediately be undertaken of the unit of OP No.4 to ensure that it does not operate in absence of a valid subsisting 'consent to operate'.

4. It will be open to the Petitioner here to participate in the proceedings before the Appellate Authority and also seek appropriate interim reliefs.

5. Since the Court does not wish to entertain the parallel proceedings and since the statutory appellate body is already seized of the appeal filed by OP No.4, to which the Petitioner is a party, this Court disposes of the present petition without expressing any view on the merits of the matter. The inspection report of the SPCB be placed before the appellate authority in the pending proceedings.

6. An urgent certified copy of this order be issued as per Rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge