

26.06.2024
Sl. No.12
akd

**M. A. T. 560 of 2024
(CAN 1 of 2024)**

[Basudeb Ghosh -Vs- The State of West Bengal & Ors.]

Mr. Jagannath Ganguly
... .. for the appellant

Mr. Sanjib Kumar Mal
Mr. Bimalendu Das
Mr. Shomrik Das
... .. for respondent nos.6 & 7

Mr. Sunil Kumar Gupta
... ..for respondent no.9

Mr. Jayanta Samanta
Mr. Bhaskar Chakraborty
Ms. Mahua Dutta Biswas
... .. for the State

1. Appellant is aggrieved by the purported adverse impact on environment and health hazards due to setting up of a new petrol pump by the private respondent no.9.
2. It is submitted on behalf of the appellant that the petrol pump had been set up in violation of the directions issued by the National Green Tribunal vide order dated 18.01.2019 and the directions of the Central Pollution Control Board i.e. Sitting criteria of Retail outlet.
3. In response, learned Advocate for the respondent nos.6 & 7 submits that the outlet has complied with all eligibility criteria.
4. We have considered the rival submissions at the Bar as well as the materials on record.
5. Appellant had initially instituted a civil suit on the selfsame cause of action. The suit came to be dismissed as not maintainable in view of the provisions of Section 14 of the National Green Tribunal Act. For reasons best known to the

appellant, he did not approach the National Green Tribunal with his grievances but knocked the doors of this court in writ jurisdiction.

6. This Court notes that the retail outlet had been set up in terms of the eligibility criteria prescribed by the oil company. In the event there is any violation of the directions of the National Green Tribunal or Central Pollution Control Board, it was open to the appellant to approach the National Green Tribunal which he has not done. Retail outlet is functioning from December, 2022 and no serious environmental degradation or health hazard has been reported till date.
7. Under such circumstances, we are not inclined to interfere with the impugned order under appeal.
8. Accordingly, the appeal stands dismissed.
9. In view of dismissal of the appeal, connected application being CAN 1 of 2024 is also disposed of.
10. There shall be no order as to costs.
11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)