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FOREST & ENVIRONMENT (ENVIRONMENT) DEPARTMENT

NOTIFICATION

The 17th August 1998

S.R.O. No. 427/98—In exercise of the powers conferred by Section 54 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), the State Government after consultation with the State Pollution Control Board hereby make the following rules to amend the Orissa Air (Prevention and Control of Pollution) Rules, 1983, namely:—

1. (1) The rules may be called the Orissa Air (Prevention and Control of Pollution) (Amendment) Rules, 1998.

(2) They shall come into force on the date of their Publication in the *Orissa Gazette*.

2. In the Orissa Air (Prevention and Control of Pollution) Rules, 1983 (hereinafter referred to as the said rules) in rule 13, for sub-rule (1) the following sub-rule shall be substituted, namely:—

"Every appeal preferred under sub-section (1) of Section 31 shall be filed by the aggrieved party in Form-VII".

3. In the said rules, after sub-rule (6) of rule 14, the following sub-rule shall be added, namely:

"(7) The fees payable under sub-section (3) of Section 31 shall be as follows:—

A. In case of Industries

- |  |           |
|--|-----------|
| (a) Large scale industries having capital investment of Rs. 5.00 crores or above,                            | Rs. 3,000 |
| (b) Medium scale industries having capital investment of Rs. 1.00 crore or above, but below Rs. 5.00 crores. | Rs. 1,500 |
| (c) Medium scale industries with capital investment below Rs. 1.00 crore.                                    | Rs. 1,000 |
| (d) Small scale industries with capital investment of above Rs. 10.00 lakhs.                                 | Rs. 500   |
| (e) Small scale industries with capital investment above Rs. 2.00 lakhs, but below Rs. 10.00 lakhs.          | Rs. 250   |
| (f) Small scale industries with capital investment of Rs. 2.00 lakhs or below.                               | Rs. 100   |

## B. In case of Local Bodies

- (a) Municipalities / Corporations having a population of more than 10 lakhs. Rs. 5,000
- (b) Municipalities/ Corporations having a population of more than 5 lakhs but less than 10 lakhs. Rs. 2,500
- (c) Municipalities/NACs having a population of more than 1 lakh but less than 5 lakhs. Rs. 1,000
- (d) Municipalities/NACs having a population up to 1 lakh and any other local bodies such as Notified Area Authority. Rs. 250

## 4. In the said rules, in Form VII :—

- (i) In the opening portion for "Section 21", "Section 31" shall be substituted; and
- (ii) Paragraph-1 except clauses (a) to (e) thereof shall be omitted.

## CHAPTER XII

## 13. Memorandum of Appeal—

- (1) Every appeal preferred under sub-section (i) of Section 21 shall be filed by the aggrieved party in Form VI.
- (2) Every aggrieved person preferring an appeal shall do so separately in his own name and no joint appeal shall be entertained by the Appellate Authority.
- (3) (a) Every appeal shall—
- (i) be in writing;
  - (ii) specify the name and address of the appellant and the date of the order appealed against;
  - (iii) specify the date on which the order appealed against was communicated to the appellant;
  - (iv) contain a clear statement of facts of the case and grounds relied upon by the aggrieved person in support of the appeal;
  - (v) state precisely the relief prayed for; and
  - (vi) be signed verified by the appellant or an agent duly authorised by the appellant in writing in this behalf.
- (b) Every appeal shall be accompanied by—
- (i) an authenticated copy of the order against which appeal is made;
  - (ii) any document relating to the appeal; and
  - (iii) a satisfactory proof of the payment of the prescribed fee.

- (c) The fee fixed by Government from time to time shall be deposited by every appellant in the office of the Appellate Authority and an authenticated copy of the receipt obtained shall be annexed to every appeal. No appeal which is not accompanied by the aforesaid copy of the receipt shall be entertained by the Appellate Authority.
- (d) Every Memorandum of Appeal shall be submitted in quadruplicate to the Appellate Authority by the appellant or his authorised agent in person or sent to such Authority by registered post. When the Memorandum of Appeal is presented by an agent duly authorised by the appellant, it shall be accompanied by a letter of authority written on a stamped paper of the value as required by law, appointing him as his agent.
- (e) On receipt of the Memorandum of Appeal, the Appellate Authority shall endorse thereon the date of its presentation or receipt by post and the name of the appellant or his duly authorised agent presenting it as the case may be.

14. Procedure to be followed by the Appellate Authority in dealing with and disposal of the appeal etc.

- (1) The Appellate Authority shall, as soon as may be, after the Memorandum of Appeal is filed before it, fix a date for hearing of the appeal and give intimation of the same to the appellant and the Member Secretary in Form VIII. While giving such intimation to the Member-Secretary, a copy of the Memorandum of Appeal together with its enclosure shall also be sent to the Member Secretary and he shall be called upon to send to the Appellate Authority, all the relevant records connected with the matter relating to the appeal.
- (2) Where the material on record is insufficient to enable the Appellate Authority to come to a definite decision, it may take additional evidence and call for such further material from the appellant or the Member-Secretary, as he deems fit. Such material shall form part of the record but not before the party other than that from whom such record has been received, has been given opportunity to pursue such record, itself against anything contained therein which is detrimental to the interest of that party.
- (3) Where on the date fixed for hearing or on the date to which the hearing of the appeal is adjourned the appellant or his duly authorised agent does not appear when the appeal is called for hearing, the appeal shall be liable to be dismissed.
- (4) Where an appeal is dismissed under sub-rule (3) the appellant may within 15 days from the dismissal of the appeal, apply to the Appellate Authority for the restoration of the appeal and if it is shown to the satisfaction of the Appellate Authority that the appellant had not received intimation of the date of hearing of the appeal or was prevented by any cause, sufficient in the opinion of the Appellate Authority from appearing when the appeal was called for hearing, the Appellate Authority may restore the appeal on such terms as it thinks fit.
- (5) The order passed by the Appellate Authority on the appeal shall be in writing and shall state clearly the points before it for determination, the decision thereof and the reasons for the decision.
- (6) A copy of the order passed in appeal shall be supplied by the Appellate Authority free of cost to the appellant and copy thereof shall also be sent to the Member-Secretary.

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FORM-VII

Form of appeal under section 31 of the Air (Prevention & Control of Pollution) Act, 1981 (14 of 1981)

[See sub-rule (1) of rule 13]

Here mention the name and designation of the authority before Appellate Authority constituted under section 31 of the Air (Prevention & Control of Pollution) Act, 1981 (14 of 1981) Memorandum of appeal of

Shri \_\_\_\_\_ (Appellant)

Vrs.

The State Pollution Control Board \_\_\_\_\_ (Respondent)

The appeal of Shri \_\_\_\_\_ resident of \_\_\_\_\_ District \_\_\_\_\_ against the order \_\_\_\_\_ dtd. \_\_\_\_\_ passed by the State Pollution Control Board under section 21 of the Air (Prevention & Control of Pollution) Act, 1981 sheweth as follows:—

- (a) Name of plant/company/corporation/municipality/Notified Area committee.
- (b) Place
- (c) Card No.
- (d) Name of the street: and
- (e) District

A copy of the Consent order in question is attached hereto.

2. The facts of the case are as under :—

(here briefly mention the facts of the case)

3. The grounds on which the appellant relies for the purpose of this appeal are as below: (here mention the grounds on which appeal is made).

- (1)
- (2)
- (3)

4. In the light of what is stated above, the appellant respectfully prayeth that

(a) the unreasonable condition (s)-----  
imposed should be treated as annulled or it/they should be constituted for such  
other condition (s) it appears to be reasonable.

OR

(b) the unreasonable condition (s)-----  
should be varied in the following manner.

[ here mention the manner in which the condition (s) objected ]

An amount of Rs.-----as fee for this appeal has been paid

vide receipt No.-----Dt.-----

(An authorised copy of this is attached in proof of payment)

Signature of the Appellant

(Name in Block letters)

Occupation

Address

Date:

VERIFICATION

I----- (appellant's name) in the above  
Memorandum of appeal/or duly authorised agent do/does hereby declare that what  
is stated therein is true to the best of my knowledge and belief and nothing has  
been hidden thereunder.

Signature

Name

(In Block letters)

Occupation

Address

Dated:

\* Strike out what is not applicable.

## FORM VIII

## Form of Notice

[See sub-rule (1) of Rule 41]

Before-----Appellate Authority

(here mention name and designation of Authority)

as constituted under Section 31 (1) of the Air (Prevention Control &amp; of Pollution) Act, 1981 (14 of 1981).

In the matter of appeal No.-----19 filed under Section 31 of the Air (Prevention & Control of Pollution) Act, 1981 (14 of 1981) by Shri-----  
(here mention the name and address of the appellant).

Whereas Shri----- (here mention the name and address of the appellant) has filed before this Authority a Memorandum of Appeal against the order-----dated-----passed by the State Pollution Control Board under Section 21 of the Act;

And Whereas under sub-section (4) of Section 31 of the Act, this authority is required to give to the parties an opportunity of being heard;

Now, therefore, please take notice that this authority has fixed-----as the date of hearing of the aforesaid appeal. The hearing shall take place at-----A. M./P.M. on that date in the office of the Authority. You are hereby called upon to appear before this Authority at the appointed time, date and place, either in person or through a duly authorised agent, and explain your case. Please take notice that failure on your part to appear on the day of hearing either in person or through a duly authorised agent, without showing sufficient cause to the satisfaction of this Authority will make your appeal liable to be dismissed or decided *ex parte*.

Given under the hand and seal of the Appellate Authority at-----  
this-----day-----.

[ No. 16410—F&amp;E-(Environment) ]

By order of the Governor

S. RATH

Principal Secretary to Government