

APPEAL NO. 1B OF 2009

16. 22.01.2011 Delay condoned. The appeal admitted for final hearing.

2. Heard Shri B. P. Tripathy, learned counsel for the appellant, Shri B. P. Pattajoshi, learned Law Officer of respondent no.1-State Pollution Control Board, Orissa, and Shri J. Mohapatra, Company Secretary and the Authorised Representative of respondent no.2-Kalinga Hospital Pvt. Ltd.

3. The appellant-Sankar Prasad Pani being aggrieved by the inaction of the State Pollution Control Board, Orissa, ('Board' hereinafter) to consider the representation made by him on 9.1.2009, vide Annexure-3, for cancellation of the Authorisation Order dated 29.5.2008 issued in favour of the Managing Director of Kalinga Hospital Pvt. Ltd., respondent no.2, on the ground of violation of the provisions of the Bio-medical Waste (Management & Handling) Rules, 1998 ('Rules' hereinafter), has filed this appeal under Rule 13 of the Rules with the prayer, inter alia, to set aside the Authorization Order, restrain the respondent no.2 from operating its health care unit and further to direct the Board to launch prosecution against the said respondent no.2.

4. On 7.3.2009 this Authority directed issuance of notice to the respondents on the question of admission of the appeal as well as on condonation of delay.

Pursuant to our direction, the Board produced the inspection report dated 28.4.2009 in regard to the bio-medical waste management of the respondent-health care unit recording its conclusion that the bio-medical waste management practice with respect to collection, segregation and storage has improved and making following recommendations:

- “01. Waste storage area is to be shifted to another location, away from the public accessibility.
02. Hospital authority is desired to be more vigilant for proper segregation of biomedical waste and mutilation of solid waste like catheters, tubing etc. at the source of generation.
03. All the units of sewage treatment plant should be operative.”

When the appeal was taken up on 18.7.2009, learned counsel for both parties brought to our notice that on the writ petition filed by Maitree Sansad being W.P. (C) No.4369 of 2003 the Hon’ble High Court issued notice to various Government and Private Medical Colleges and Hospitals including the respondent no.2-Hospital considering the report of the Board regarding non-compliance of the statutory provision relating to bio-medical wastes. In view of the above, this Authority did not think it prudent to proceed with this appeal and accordingly awaited the orders of the Hon’ble High Court.

On 24.10.2009 the Board produced before us the order passed by the Hon’ble High Court on 11.9.2009 wherein considering the affidavit filed by the Board the

Hon'ble High Court observed that there was no impediment on the part of this Authority in dealing with the appeals and disposing of the same. In view of the aforesaid order, we adjourned the matter to 21.11.2009 directing awaiting compliance of the directions of the Hon'ble High Court. When the matter was taken up on 26.12.2009, the authorized representative of respondent no.2 made a statement that respondent no.2 has complied with the conditions of the authorization considering which we adjourned the appeal and required the Board to inspect the health care unit and submit a report regarding compliance of the conditions.

On 6.3.2010 considering the conclusion and recommendation made in the inspection report of the Board that the Hospital authorities were to take action for proper segregation of bio-medical wastes and mutilation of plastic wastes like catheters, tubings at the source of generation and the sewage treatment plant should be operative, we granted time till 17.4.2010 to respondent no.2 to comply with the aforesaid conclusion and recommendation. On behalf of the Hospital, a compliance report was filed on which the Board authorities were asked to inspect and report. Accordingly, the Board submitted its report on 19.6.2010 pointing out certain deficiencies considering which the Hospital authorities were directed to remove such deficiencies.

On 11.10.2010 the authorized representative of respondent no.2-Hospital while stating that the deficiencies pointed out had already been removed filed an application praying for closure of the appeal in view of compliance of the Bio-medical Waste Management practice to the satisfaction of the enforcing authority on which the Board was asked to file its response after verifying the contents thereof.

On 4.12.2010 the Board along with the memo. filed its inspection report dated 1.12.2010. In the said inspection report the Board has observed that in regard to operational status of STP, the sewage treatment plant of the hospital was in operation and there was no discharge of untreated waste water to outside and the sample collected from the outlet of STP on analysis reveals that it is meeting the prescribed standard. In its conclusion the Board has indicated that the hospital is satisfactorily complying the provisions of the Biomedical Waste (Management and Handling) Rules but has recommended that the hospital is required to maintain the present practice for all the time. The authorized representative of the respondent-hospital, i.e., the Company Secretary, undertakes that the hospital will maintain the present practice and prays that in view of the report submitted by the Board, the appeal may be disposed of.

5. Considering the aforesaid conclusion and recommendation of the Board, and the undertaking

given by the authorized representative of the respondent no.2-hospital, we dispose of this appeal with a direction to the hospital authority to maintain the present practice for all the time. In case in future it is found that the respondent no.2 has violated the provisions of the Rules or the conditions of the authorization order, it will be open to the appellant to bring the same to the notice of the Board in which event the Board shall take appropriate action against the hospital authorities.

The appeal stands disposed of accordingly.

.....Sd/-.....
Justice B. P. Das,
Chairman

..... Sd/-.....
Dr. R. K. Nath,
Member