



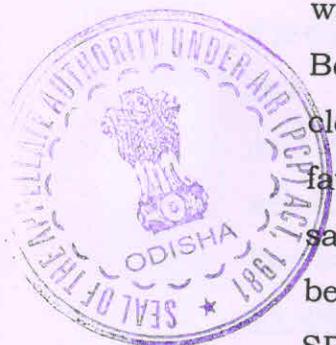
The appellant in both the appeals challenges the orders dated 15.4.2021, 4.5.2021 and 5.5.2021 of the Regional Officer, State Pollution Control Board (for short, 'the S.P.C.B. '), Berhampur, District - Ganjam, in reconsidering the consent to establish and consent to operate granted in favour of the respondent no.1, a Rice Mill at Harabhangi Road, Badagada, District - Ganjam.

2. The back-drop of the present proceeding is that the respondent no. 1 after obtaining a No Objection Certificate from the concerned Grama Panchayat in the year 2011, applied for consent to establish and operate her rice mill and obtained the same from the Regional Officer, SPCB, Berhampur in the year 2014 which was valid up to 31.3.2019. The present appellant filed a complaint before the Regional Officer, SPCB, Berhampur alleging pollution caused by the said rice mill of the respondent no.1 which was verified by the Regional Officer, SPCB, Berhampur and on direction, the respondent no.2 complied the deficiencies. Subsequently, another complaint was also filed by the present appellant before the Regional Officer, SPCB, Berhampur alleging that the No Objection Certificate from the Sarpanch of the Grama Panchayat obtained by the respondent no.1 was fake and the unit was encroaching the Government land. The respondent no.1 was asked to file show cause and subsequently, the respondent no. 1 was served with a closure notice on 31.5.2017 revoking the orders of consent to establish and operate by the Regional Officer, SPCB, Berhampur. The respondent no.1 approached the Hon'ble High Court of Orissa assailing the said notice and subsequently, being directed, she moved this Authority in Appeal No. 1A of 2019. In course of hearing of the said appeal, the appellant, namely, the present respondent no. 1 submitted that she had obtained a fresh No

Objection Certificate from the concerned Grama Panchayat and, hence, the allegation of obtaining a fake No Objection was not sustainable. In the said proceeding, the present appellant filed an application to be an intervenor and after hearing the parties, by order dated 30.3.2021, the Appeal No. 1A of 2019 was disposed of by remanding the matter to the Regional Officer, SPCB, Berhampur to reconsider the matter after giving opportunity of hearing to the appellant therein as well the intending intervenor. However, the interim order passed by the Hon'ble High Court of Orissa suspending the order of closure was also directed to continue. The Regional Officer, SPCB, Berhampur after hearing the parties, revoked the orders of closure thereby bringing into force the consent to operate in favour of the present respondent no.1. Being aggrieved by the said order of revocation, the present appellant, who intended to be an intervenor and was also heard by the Regional Officer, SPCB, Berhampur, has preferred this appeal.

3. The contentions of the appellant are that the respondent no. 1 has managed to manufacture another No Objection Certificate said to have been granted by the concerned Grama Panchayat and, further, the unit of the respondent no. 1 is also causing pollution in the area.

4. Per contra, it was submitted by the respondent no.1 that the allegation of obtaining fake No Objection Certificate or manufacturing the document is absolutely false and motivated due to personal vendetta of the appellant and that the Regional Officer, SPCB, Berhampur after hearing the parties and considering the materials placed before him, apart from directing the respondent no.1 to take corrective measures relating to the alleged pollution, has rightly revoked the earlier orders of



closure. The contention of respondent no.1 was also supported by the respondent no.2 - Regional Officer, SPCB, Berhampur.

5. Since the No Objection Certificate granted by the concerned Grama Panchayat was alleged to be manufactured, it was verified by the concerned Block Development Officer, Surada, who had certified that the documents were genuine.

6. In course of hearing of the present appeal, the Block Development Officer, Surada Tahasil, Surada remained present in person and placing the documents reiterated that the No Objection Certificate granted by the concerned Grama Panchayat was admitted to have been issued by the concerned Sarpanch and the allegation of the appellant that the document was manufactured, was not correct. At the first instance, it was also submitted by the concerned Block Development Officer, Surada that the concerned Grama Panchayat under Surada Tahasil being scheduled area as per the **Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977**, the District Collector is the competent authority to issue No Objection Certificate and the Sarpanch of the concerned Grama Panchayat can be merely a recommending authority. As apparent from the records, this aspect has escaped the notice of the Regional Officer, SPCB, Berhampur. No Objection Certificate from the concerned District Collector, being an essential factor, should have been obtained and considered by the concerned Regional Officer, SPCB, Berhampur before granting consent to establish and consent to operate.

7. In these circumstances, we feel it proper to again remand the matter back to the Regional Officer, SPCB, Berhampur, Ganjam to have a re-look into the matter and, obviously, after obtainment of the No Objection Certificate from the concerned District Collector. However, as we have found out

in course of hearing, the allegation in respect of No Objection Certificate granted by the concerned Grama Panchayat is set at rest holding it to be genuine in view of the submissions made by the concerned Block Development Officer. We also do not express any opinion about any other requirements for grant of consent to establish and consent to operate, which would be duly considered by the concerned Regional Officer, SPCB, Berhampur and the Regional Officer, SPCB, Berhampur shall do well to complete the entire exercise as early as possible, preferably within a period of four months from the date of receipt of copy of this judgment. Status quo in respect of operation of the unit of the respondent no.1, as on date, shall be maintained till final order of the Regional Officer, SPCB, Berhampur.

8. Both the appeals are accordingly disposed of.

I agree  
**Justice J.P.Das,**  
Vice-Chairman.

*Sd/-*  
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**Dr. D.K. Rout,**  
Member.

*Sd/-*  
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**Justice J.P.Das,**  
Vice-Chairman

I agree  
**Prof.(Dr.) P.K.J. Mohapatra, Member**

*Sd/-*  
.....  
**Prof.(Dr.)P.K. J. Mohapatra,**  
Member.

I agree  
**P.K. Tripathy Member**

*Sd/-*  
.....  
**P.K.Tripathy,**  
Member

I agree  
**Prof.(Dr.) B.C. Acharya, Member**

*Sd/-*  
.....  
**Prof.(Dr.) B.C.Acharya,**  
Member

Date : 31.05.2022.  
K.K. Biswal, P.A.

