

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

O.A. No. 145/2016/EZ

GOPAL KRISHNA OJHA

VS

**STATE OF WEST BENGAL & ORS**

CORAM: Hon'ble Mr. Justice (Dr.) P.Jyothimani, Judicial Member  
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: Applicant : Mr. Raj Kumar Sharma, Advocate  
Respondents No.2 to 4 : Mr. Dipanjan Ghosh, Advocate  
Respondent No. 5 : Mr. R.K.Chowdhury, Advocate  
Respondents No. 8-10 : Mr. Raju Das, Advocate  
Other Respondents : None

Date & Remarks	Orders of the Tribunal
Item No. 7 3 <sup>rd</sup> January, 2017.	<p>We have heard the learned counsel for the applicant and the respondents, particularly, the private respondents 8 to 10, who are manufacturer of furniture.</p> <p>The case of the applicant is that by virtue of the activities being done by the private respondents No. 8 to 10, noise pollution is caused apart from dust particles being generated from the cutting of woods and wooden logs. It is the further case of the applicant that his wife, who is a qualified homeopathic doctor, is running a school for small children under the name and style of "Jack and Jill" in the said building premises. By the noise and dust pollution, the children are affected resulting in health problem.</p> <p>After a direction from this Tribunal, the State PCB</p>

has submitted a report stating that the Board has decided to conduct an inquiry on 8.12.2016 and the affidavit filed on behalf of the State PCB enclosing the record of proceedings dated 8.12.2016 shows that the private respondents had appeared during the enquiry on 8.12.2016 and the complaint of noise pollution caused by the motorised machines being used by the private respondents had been considered. It was also considered that previously the activity of the private respondents was in exempted category but as per the present categorisation, they require to obtain consent from the Board. The record of proceeding also states that direction has been issued to the private respondents to obtain consent to operate for use of electrical (motorized) machine for its manufacturing activities. It is also stated that the Environmental Engineer, Hooghly Regional Office of the State Board was requested to dispose of the consent to operate application of the private respondents, if applied for.

Even though the learned counsel for the private respondents is unable to inform this Tribunal as to whether such application has been filed or not, from the record of proceedings it is quite clear that no such application has been filed or is pending before the Board.

In view of above and taking note of the fact that the activities of the private respondents are causing

environmental damages particularly, relating to noise level which is beyond the prescribed limit as it is seen in the PCB's earlier report filed along with the affidavit dated 27.10.2016, we are of the view that the private respondents shall not be permitted to proceed with their activities by using electrical (motorized) machines for manufacturing activities for which consent to operate is necessary. We direct that if the private respondents approach the Board with proper application and other materials including prescribed fees, the PCB shall, on receipt of the same consider and dispose it off on merit and in accordance with law expeditiously but not later than two weeks thereafter. Till such consent to operate is obtained from the Board, we reiterate that the private respondents shall not proceed with any of the activities as stated above.

Needless to state that if any person is affected by the decision of the Board, he shall be entitled to work out remedy in the manner known to law.

With the above direction the application stands closed.

There shall be no order as to costs.

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Justice (Dr.) P. Jyothimni, JM  
3-1-2017

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Prof. (Dr.) P. C. Mishra, EM  
3-1-2017

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