

31.05.2016

Heard Sri Rath, learned counsel for the petitioner and the State Counsel.

Challenging the impugned order under Annexure-1, learned counsel for the petitioner submits that the impugned order is an outcome of a direction of the National Green Tribunal, EZB, Kolkata dated 29.03.2016. Referring to paragraph No.4 of the order, learned counsel for the petitioner further contended that the learned Green Tribunal gave a direction to the competent authority i.e. the State Pollution Control Board, Odisha to verify the facts pleaded in the various M.As noted therein and in the event, statements averred in the applications found to be correct and the Hotels are operating business from the inception with a valid consent to operate certificate, it would be open for the State Pollution Control Board, Odisha to relieve the burden of penalty but however, if they are found to be in violation of law as alleged by the applicant, the State Pollution Control Board shall be at liberty to impose the penalty stipulated by us in our order dated 2.3.2016 without reference to this Tribunal.

It is in these premises, learned counsel for the petitioner contended that the impugned order has been passed without complying the natural justice and in absolute non-consideration of the application submitted by the petitioner before the National Green Tribunal.

Heard learned counsel for the petitioner.

Reading of the order passed by the National Green Tribunal dated 29.03.2016 and reading of the impugned order makes it clear that the impugned order has been passed without following natural justice. Further the impugned order also nowhere discloses that any consideration of the Miscellaneous Application filed by the petitioner before the National Green Tribunal except an indication that State Pollution Control Boards record shows that the petitioner was operating at the relevant time without any consent order. Be that as it may, since a huge penalty has been imposed minimum compliance of natural justice would have been there. Finding such a situation this Court instead of keeping the matter pending decides at admission stage to enable the petitioner to file his objection to such imposition of penalty before the competent authority within a period of ten days hence subject to however depositing at least 30% of the amount directed in the impugned order. This deposit will however, be subject to final outcome in the matter.

In the event the objection is filed within ten days along with the deposit as directed by this Court, the State Pollution Control Board, Odisha is directed to consider the objection at the instance of the petitioner within a period of three weeks thereafter and pass a fresh order. Till such period, no coercive action shall be taken against the petitioner.

Writ petition stands disposed of with the above direction.

Urgent certified copy of this order be granted on proper application.

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Biswanath Rath, J.
(Vacation Judge)