

M/S. S.A. Sugandh Pvt. Ltd vs The Chairman on 24 April, 2024

Author: S.K. Panigrahi

Bench: S.K. Panigrahi

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.34274 of 2023

M/s. S.A. Sugandh Pvt. Ltd., Petitioner
Chhatisgarh

Represented By Sr. Adv.
Mr. S. P. Mishra
Along with
Mr. V. Mohapatra

-versus-

The Chairman, State Pollution Opposite Parties
Control Board, Bhubaneswar
& Ors.

Represented By Adv.
Mr. S. P. Mohanty
Mr. P. K. Parhi, DSGI
Mr. I. Mohanty, ASC

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER

Order 24.04.2024
No.

05. 1. This matter is taken up through hybrid arrangement.

2. The Petitioner, in this Writ Petition, challenges the communication No.2334/IIICON(NOC/02/2022-23) dated 06.07.2023 issued by the Regional Officer, State Pollution Control Board/Opposite Party No.5 under Annexure-4 // 2 // rejecting its application for grant of CTE manufacture of Tobacco and Tobacco Products of 2400 TPA from Raw Tobacco, Perfume, Kiwam of 2400 TPA at Sandasingha, PO-Sasan, Dist-Sambalpur. He further challenges the communication No.14493/IND-IV-BW-3436 dated 13.09.2023 issued by the Chief Environmental Engineer, Bhubaneswar/Opposite Party No.4.

3. Heard learned counsel for the Parties.

4. At the outset, learned counsel for the State brings to the notice of this Court to the letter dated 16.03.2024 issued by the Health and Family Welfare Department, Government of Odisha wherein, it has been stated that the product Chewing Tobacco is excluded from the category of the goods prohibited products under the notification No.367 dated 03.01.2013 issued under Section 30(2)(a) of the Food Safety and Standards Act, 2006.

5. Since the learned counsel for the State has clarified that the Chewing Tobacco is not a prohibited product, the State Pollution Control Board should not have gone into this aspect. The State Pollution Control Board specifically does not attribute any reason for the unit which is polluting in any form. However, on a non-issue which is // 3 // clarified by the State Government as per the above letter, the consent to establish has not granted. Accordingly, the impugned order dated 06.07.2023 was issued to the present Petitioner refusing to grant consent to establish for manufacture of Tobacco and Tobacco products of 2400 TPA from Raw Tobacco, perfume, Kiwam of 2400 TPA under Annexure-4.

6. In the said letter, the State Pollution Control Board, Odisha has stated that the Health and Family Welfare Department has prohibited the manufacture, storage, sale and distribution of Gutkha and Panmasala containing Tobacco/nicotine as the ingredients by whatsoever name available in the market. Under such circumstances, the application filed by the present Petitioner for Consent to Establish has been refused.

7. Considering the letter dated 16.03.2024 issued by the Health and Family Welfare Department, Government of Odisha wherein, it has been clearly stated that the Chewing Tobacco is not a prohibited item under Section 30(2)(a) of the Food Safety and Standards Act, 2006, the communication No.2334/IIICON(NOC/02/2022-23) dated 06.07.2023 issued by the Regional Officer, State Pollution // 4 // Control Board/Opposite Party No.5 and the communication No.14493/IND-IV-BW-3436 dated 13.09.2023 issued by the Chief Environmental Engineer, Bhubaneswar/Opposite Party No.4 are set aside. However, the Petitioner is directed to file application for consent to establish the unit for Chewing Tobacco before the authority. In such event, the authority concerned shall consider the same afresh in accordance with law.

8. Accordingly, Writ Petition is disposed of.

(Dr. S.K. Panigrahi) Judge Sumitra Location: High Court of Orissa, Cuttack