

ORDER

The WP(C) No. 24990 of 2022 filed before the Hon'ble High Court, Orissa by Nanda Jhodia and others (hence referred as petitioners) Vrs. State of Odisha and others as opposite parties.

The petitioner produced the certified copy of the order No. -1 dt. 31.10.2022 of Hon'ble High Court Orissa passed in W.P.(C) No. 24990 of 2022 on 13.11.2022. The same is also received from Suptd. of High Court, Orissa on 19.11.2022. Perused the order of Hon'ble High Court. Hon'ble High Court, Orissa has passed order directing opposite party No-2 i.e., R.D.C.(SD), Berhampur to take a decision on the above noted petition in accordance with law and also taking into account "the order under Annexure-6 within a period of one month from the date of production of certified copy of this order and communicate the result of such exercise to the petitioners". The date was fixed on 15.12.2022 for the hearing. So, the notices were issued to all concerned vide this office L. No. 769/AII-56/22/LA, dt. 06.12.2022 (petitioners), 773/AII-56/22/LA, dt. 06.12.2022 (The Collector, Rayagada), 771/AII-56/22/LA, dt. 6.12.2022 (CEO- UAIL) & 778/AII-56/22/LA, dt. 06.12.2022 (RO, SPCB, Rayagada).

Contention: -

The contention of the petitioners in WPC No. 24990 of 2022 are as follows:

1. Direct to the Opposite Parties for taking steps to check the sound pollution, dust pollution, air pollution caused due to conveyor belt, red mud Pond, Ash Pond, Road mill, L.D.C. MeJH (Medium Junction House) as well as for the movement of heavy vehicles inside the village road.
2. And further direct the opposite parties to take steps for shifting of the conveyor belt, Red Mud Pond, Ash Pond, Road mill, L.D.C. MeJH (Medium Junction House) as well as for the movement of heavy vehicles in the village road far away from the village- Lachhuguda, Tahasil- Kashipur, Dist- Rayagada.
3. And otherwise direct the opposite parties to provide alternative housing accommodation and other rehabilitation facilities, pursuant to the Orissa Resettlement & Rehabilitation Policy, 2006 for the acquisition of the major portion of the agricultural land of the petitioners as well as the villagers of the petitioners i.e., village- Lachhuguda, Tahasil- Kashipur, Dist-Rayagada.

Accordingly, the 1st hearing was conducted on 15.12.2022. The Spl. LAO, Rayagada, Regional Officer, State Pollution Control Board, Rayagada, Head & PRO, UAIL, Land

Officer, UAIL, Head Environment, UAIL, the petitioners Nanda Jhodia, Arjuna Gouda & Chitra Gouda were present. The petitioners also participated along with their advocate Sri Deepak Kumar Pattnaik & others.

The Advocate for the petitioners submitted that due to the conveyor belt dust/ air, sound and water pollution are caused. The river/ nala flowing near the village and its water is used by the villagers for the purpose of drinking, bathing and other day to day use of water. The villagers alleged that the quality of water has become worse/ murky. It was told that in day time, 55 above decibel of sound is caused due to the conveyor belt. The villagers told that it is more in night time. So, the inhabitants are unable to sleep properly.

So, the Advocate demanded for either shifting of the villagers or the conveyor belt and the compensation amount should be given to the villagers.

Though the conveyor belt is within the acquired land, it was unknown to the villagers during acquisition that the conveyor belt will be installed beside their village. The Learned Advocate further requested to do a fair & physical enquiry by Sub-Collector, Tahsildar, LAO & Technical person within a short period.

RO, SPCB, Rayagada stated that proper cover of the belt with new technology can reduce the pollution. He further stated that 100% cover and maintenance with sophisticated technology can reduce the pollution.

One week's time was given to all to produce evidence/ submissions regarding their respective contentions. It was instructed to Collector, Rayagada vide this office L. No. 808/ AII-56/22/LA dt. 15.12.2022 that a team headed by Sub-Collector, Rayagada and comprising R.O. (SPCB), Tahasildar, Spl. LAO and other technical personnel should visit the affected area unannounced and at relevant time of day/ night within a week and submit their joint visit report.

The field enquiry report of the Collector, Rayagada was received on 19.01.2023 by Regd. Post. The same was put up on 21.01.2023. Accordingly, the second hearing date was scheduled for 02.02.2023.

On 02.02.2023 all the parties were present except the representative of UAIL. Further, RDC reiterated the discussion and instructions thereof of previous hearing, especially on the sudden and surprise visit to the field by a committee. The parties stated that two surprise visits have been conducted by the Committee. The advocate of the petitioner Nanda Jhodia produced a video about the field situation. It was charged by the petitioner parties that during the visit of the Committee on 20.12.2022 to examine the pollution hazards at about 2.00PM,

the conveyor belt and movement of vehicles had been stopped by UAIL, Doraguda. So, the Committee postponed their visit. On 31.12.2022, the Committee re-visited the spot. During the visit the villagers of Lachhuguda were present. All the villagers agreed that two times visits were made by the Committee. The villagers of Lachhuguda stated that to reduce or hide signs of air pollution, watering on the road was done on that day but the conveyor belt was operating and producing more sound.

The villagers produced the recordings of field situation which was only recorded during the visit of the Committee, not of other days. The Regional Officer, State Pollution Control Board stated that the pollution is caused due to conveyor belt & movement of vehicles etc. and the sound pollution is above the standard limit and the condition of the water due to ash is not palatable as the morbidity of water is more. He further informed that all these can be overcome by regular checking and monitoring by UAIL authorities.

Perused the report of the Collector, Rayagada. In the report of the Collector, it is suggested that proper and efficient function of all dust suppression systems should be installed to avoid any dust emission. For this purpose, they can use bag filters or dust suppression system like ultrasonic fogging system in the intermediate junction house area for effective dust control. The sound pollution can be controlled with the latest available technology. For water pollution the Collector, Rayagada has suggested to dig deep borewell with overhead tank facility for supply of water for direct consumption by the villagers of new Harijan street & Gouda street of Lachhuguda village. In order to avoid noise pollution, the Collector, Rayagada has suggested that the industry should ensure the complete covering and enclosure of intermediate junction house and proper hood covering of bauxite conveyors.

The video clippings produced by the villagers was played on screen for benefit of all present. The villagers stated that the roads on which the vehicles are moving have never been blacktopped. It is used as such since the beginning of the project. It is known that Lachhuguda habitation comprises of 250 families and is 150 mtrs. away from the location of conveyor belt. The villagers have mentioned in their petition dt. 20.01.23 that on the 2nd time visit of the Committee i.e., on 31.12.2022, the company had foul played, sinfully and tactfully sprinkled water on the road and not plied the transporting vehicles on that day, in order to impress upon the committee that no air & sound pollution is being caused by the company.

Despite differing contentions by the company, the general prevalence of pollution in the area cannot be denied. Besides the contention of the petitioner, the observation and recommendation in the enquiry report of Collector, Rayagada, and the report of the R.O.,



SPCB, Rayagada support this assessment. Coming to the other points raised by the petitioners, appraisal on the issues is condensed in the following paras:

In Para-12 of the petition, it is submitted that basing on the report of the Collector, Rayagada, RDC(SD) vide L. No. 324 dt. 22.12.2021 has suggested to Govt. (R&DM Dept.) for consideration the plight of Dwimundi Village.

It is clear that the conveyor belt runs through acquired land and that Lachhuguda village lies outside acquired area at a distance of about 150 meters from the conveyor belt. The parallel drawn between Lachhuguda village and Dwimundi village suffers from inconsistencies of facts. Dwimundi is located right beside the boundary of the main Utkal Alumina plant while Lachhuguda is situated at a distance of at least 1km from the main plant. Specific report on Dwimundi was sent to the Government vide RDC L. No. 324/LA date 22.12.2021.

Apropos the contention raised by petitioner- party in the original petition to the Hon'ble High Court dt 21.09.2022 that no RPDAC meeting has been held since 2017, the matter needs to be put in the proper perspective. The 5th RPDAC for Utkal Alumina was held on 09.12.2017 and the 6th RPDAC was held on 06.10.2022. In both these meetings concerns of Lachhuguda village were discussed and recorded in the proceedings.

The Orissa Resettlement and Rehabilitation policy, 2006 primarily gives emphasis on "Displaced Families" following an acquisition of their land (homestead) for the purpose of the plant (company), and attendant benefits due to these families as a result of such acquisition and displacement thereof. Both Lachhuguda and Dwimundi villages (house site settlements) fall outside the RR policy's (2006) purview, in that these habitations are outside the acquired zone so as to preclude them from 'displaced' category. Rehabilitation of habitations in proximity to the area of operation, but nonetheless unacquired, has not immediately been provided for in the policy. This being the case, within the ambit of this policy, relocation to an alternative site (as demanded by the petitioner) is a direct corollary to acquisition.

The company (M/s Utkal Alumina) has categorically submitted that they have no plans to acquire any more land (Lachhuguda village).

In fine appreciation of all issues assessed so far, this authority is inclined to believe that the situation can still be salvaged without the need to relocate the villagers of Lachhuguda by strictly implementing the recommendations tendered by Collector, Rayagada

and Regional Officer, SPCB, Rayagada. These are practical steps that should be attempted on ground to ameliorate the situation.

The Regional Officer, SPCB has been vested with authority by the SPCB, Bhubaneswar. As per the Office order No. 10683/ I-Estt. (Misc.)276/2017 dt. 30.07.2021 of State Pollution Control Board, Odisha, Bhubaneswar, it is “the responsibility of the Regional Officer to provide guidance to the regulated units (i.e., Industry, Mines, ULBs, HCU's etc) to adopt appropriate pollution control measures. The Regional Officer shall initiate legal action against the defaulting units for which he/she has been authorised to file prosecution cases or issue directions in accordance with relevant provisions of law. The Regional Officer shall attend relevant meetings and remain in constant touch with the District Authorities and render necessary advise and assistance to the District Authorities in the matter of environmental pollution within their respective jurisdiction. Regional Officer shall develop a system of grievances redressal to address the public complaints on environmental matters within their jurisdiction. The Regional Officer shall lodge complaints under the provision of Section 15 of Environment (Protection) Act, 1986 as violation of any provision of the Environmental Protection Act, 1986, i.e., pollution of air, water or land or any harm to the environment is a crime which amounts to the punishment of imprisonment up to 05 yrs. along with a fine that may extend to Rs.1,00,000 and continued failure to comply with the law will lead to an additional fine of Rs. 5,000 for every day of non-compliance”. Regional Officer, SPCB, Rayagada is directed to act as per the above-mentioned office order without any negligence.

Further M/s UAIL, Doraguda is directed to adhere the following instructions: -

- a. To ensure proper & efficient functioning of all dust suppression systems to avoid any fugitive emissions from plant towards nearby village.
- b. Regularly maintain and check the dry fog system operating with high pressure in the aforesaid junction house area for control of dust to the nearby village Lachhuguda. The company shall also upgrade the existing set-up with latest Dust Extraction system i.e., Bag filter/ Dust suppression system like Ultrasonic Misting/ Fogging System in the intermediate junction house area for effective dust control.
- c. Proactively take suitable steps for concreting/ black topping the roads used by its lorry/ trucks along the village Lachhuguda and its vicinity, and regular water sprinkling along the said routes and plantations to maintain Ambient Air Quality within the prescribed norm in the village area.

- d. Deep Bore Well with Overhead Tank facility and water supply system shall be provided to the villagers at the New Harijan Street and at the Gouda Street of the Lachhuguda village under CSR activities.
- e. The Company shall ensure the complete covering and enclosure of intermediate junction house and proper hood covering of Bauxite Conveyors to control noise during operation of the unit.

The R.O., SPCB, Rayagada is also directed to make regular inspections of the plant and the surrounding areas, and give full vent to the authority vested on him vide the aforementioned SPCB order of 2021.

The Collector Rayagada shall head an Environment Management Committee comprising DFO Rayagada, Tahasildar Kashipur, R.O Rayagada (SPCB), Utkal Alumina Officials and two responsible village representatives of Lachhuguda, among others to monitor the implementation of the above order and the pollution levels in the area. The Committee shall meet once every two months to appraise progress and also to address the immediate environmental concerns / grievances of the people.

All of the above for immediate activation. The Hon'ble High Court order in WP(C) No.24990 of 2022 is thus complied and the matter accordingly disposed.



Revenue Divisional Commissioner,
Southern Division, Berhampur.