

**HON'BLE THE CHIEF JUSTICE MR. MOHAMMAD RAFIQ
HON'BLE DR. JUSTICE B.R. SARANGI**

02. 18.12.2020

Ms. P.P. Rao, Adv. : For the petitioner

Mrs. S. Pattnaik, A.G.A. : For State-opposite parties

ORDER

The matter is taken up through Video Conferencing mode.

New Light Yubak Sangha, a club registered under the Cooperative Society Act bearing Registration No.KRD4/90-91 dated 22.05.1990 represented through its secretary being the petitioner, has filed this writ petition seeking direction to the opposite parties to cause an inquiry on the basis of the grievance made by the villagers of Sodamal and further seeks to cancel the notification dated 10.10.2019 in Annexure-3 of the Tahasildar, Kolabira and the letter dated 19.10.2020 of Land Officer, IDCO-opposite party no.7 under Annexure-4 for allotment of land in favour of opposite party no.8-M/s Mahanadi Waste Management Services by considering the representation under Annexure-6 within a stipulated time.

The petitioner-club was established for the purpose of development of the poor, unemployed and downtrodden persons as well as the welfare programme for the weakened section of the society and to look into the welfare and social public works of village Sodamal and its nearby area and also put grievance before the authority for their fundamental rights of enjoyment of pollution free water and air for full enjoyment of their life as well as other inhabitants of the locality. In the year 2011 and 2015,



Tahasildar, Kolabira had issued a public notice that the land in question would be handed over to IDCO, Bhubaneswar for establishment of industry on permanent lease basis. The land in question is a government land and with fully newly created green trees situated over khata no.490 in mouza-Sodamal in the district of Jharsuguda. After the said notification, the local people, who belongs to scheduled caste and scheduled tribe community immediately put their grievance before the Collector and District Magistrate, Jharsuguda and the petitioner also taken steps for the local people for their welfare and protection of newly created forests by submitting grievance and after intervention of media, the question of handing over the land to IDCO was cancelled. But, again in the year 2019, Tahasildar, Kolabira published a notification that the land in question, which is jungle kism, would be handed over to IDCO on lease basis so that IDCO would hand over the same to opposite party no.8 for setting up of the industry by allotting the area measuring Ac.8.00 decimals for the project. The District Level Single Window Clearance Committee without giving opportunity of hearing to the local villagers approved the application of opposite party no.8 for allotment of forest land in which newly planted valuable trees are growing. In the event of establishment of industry of opposite party no.8 in the aforesaid land in question, there will be destruction of eco-system by felling down the trees at the cost of livelihood of the local people, which is in gross violation of Article 21 of the Constitution of India. The petitioner club has also created new forest over the land in question by planting valuable trees under the afforestation programme of the government and the forest department has supplied the trees for plantation over the said land. As such, the forest department has also issued certificate



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to the petitioner's club for creation of social forest over the land in question. Now in the event land is allotted in favour of opposite party no.8 for setting up of an industry, it will cause great prejudice to the people of locality. Hence this application.

Miss P.P. Rao, learned counsel for the petitioner argued with vehemence contending that the area having been located in the district of Jharsuguda wherein full grown forest has been undergone with the help of local people, it helps the people to get free air and water. In the event the industry of opposite party no.8 is established, it will destroy the eco-system and people will be deprived of getting free air and water, which will affect their right to live with dignity enshrined under Article 21 of the Constitution of India. Thereby, the petitioner seeks interference of this Court.

Mrs. S. Pattnaik, learned Additional Government Advocate contended that since the copy of the writ petition was served on her on 08.12.2020, she has not received any instructions in the matter. As such, if the petitioner has already made grievance vide Annexure-6 before the authority, let the matter be disposed of directing the authority concerned to consider the same by affording opportunity of hearing to the petitioner vis-à-vis opposite party no.8 and other affected persons before setting up of industry in accordance with law.

Having heard learned counsel for the parties and after perusal of the pleadings available on record, this Court is of the considered view that the steps taken by opposite party no.8 at the cost of local people is serious one, thereby as has been stated earlier if the lease was allotted in the year 2011 and 2015 and the said proposal was cancelled, subsequently there was no valid justifiable reason to set up the industry by opposite party no.8 in the said land by destroying the eco-system without hearing the

grievance of the local people. No doubt, industrialization is required for enhancement of revenue, but that does not mean at the cost of the lives of human being by destroying eco-system. Thereby, equity has to be maintained between industrialization and eco-system itself. Unless there is equilibrium between the two systems, ultimate result will be devastated.

In such view of the matter, this Court is of the considered view that since the petitioner has already moved the representation vide Annexure-6 to opposite party no.2-Collector and District Magistrate, Jharsuguda and the same is still pending for consideration, this writ petition is disposed of directing opposite party no.2 to consider the same and pass a reasoned and speaking order by affording opportunity of hearing to the petitioner vis-à-vis opposite party no.8 and other affected persons, if any, as expeditiously as possible preferably within a period of three months from the date of production/communication of an authenticated copy of this order before setting up of the unit of opposite party no.8 in the locality.

As COVID-19 pandemic situation is continuing, learned counsel for the petitioner may utilize the soft copy of this order available in the High Court's website or print out thereof at par with certified copies in the manner prescribed, vide Court's Notice No.4587, dated 25.03.2020.

(Dr. B.R. Sarangi)
Judge

(Mohammad Rafiq)
Chief Justice