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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION No. 6260/2012.**

Suryodaya paper Mills Pvt. Ltd. Nagpur.

**-VERSUS-**

The State of Maharashtra and others.

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

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Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI**

**AND P.B.VARALE, JJ.**

**DATED : FEBRUARY 06, 2013.**

Heard Shri A.A. Kathane, learned Counsel  
for the petitioner, Shri Thakare, learned A.G.P. for  
respondent nos. 1 to 6 and Shri R.O. Chhabra, learned  
Counsel for respondent Nos. 7 to 9.

Only question involved is, whether the  
petitioner is a Polluting Industry or Non-polluting  
Industry ?

It is not in dispute that a Medium Scale  
Industry, polluting in nature, cannot be allowed to be

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established within 25 kms. of the outer boundary of the Nagpur City.

According to the petitioner, certificate issued to is by the Maharashtra Pollution Control Board on 02.05.2012 shows that it is a non-polluting industry. It is further contended that the impugned order only mentions that as the petitioner is a Medium Scale Industry, hence it cannot come up within the radius of 25 Km.

Shri Chhabra, learned Counsel appearing for the respondent Nagpur Improvement Trust invites our attention to the provisions of Development Plan to show that Paper pulp as also Paper product Industry is polluting industry.

Perusal of the impugned order dated 29.10.2012 reveals that in it's opening part, the Executive Engineer has mentioned that scrutiny of papers reveal project of petitioner to be a Medium Scale Project. Then provisions of Development Plan are mentioned and while mentioning it, it has been observed that a Large Scale or Medium Scale Industry

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leading to pollution problems cannot be established within 25 Kms. It is not very clear whether these observations relate to the industry of petitioner or then, the provisions of Development Control Policy, as envisaged in Clause 4.2.5(4) are mentioned.

It is therefore, clear that some disputed question arise for determination. We therefore, grant petitioner leave to move appropriate representation to the respondent no.7 within a period of two weeks from today. If such representation is moved, the Competent Authority shall look into the same afresh and uninfluenced by its earlier order dated 29.10.2012 and take appropriate decision on the question. The said decision shall be taken within a further period of eight weeks. If necessary, opportunity of hearing shall be extended to petitioner.

With these observations, we dispose of the petition. No costs.

**JUDGE**

**JUDGE**

Rgd