

Court No. - 21

Case :- WRIT - C No. - 21606 of 2020

Petitioner :- M/S Parmeshwari Singh Brick Industries And
Another

Respondent :- U.P. Pollution Control Board And 5 Others

Counsel for Petitioner :- Virendra Singh, Amar Bahadur Maurya

Counsel for Respondent :- C.S.C., Hari Nath Tripathi

Hon'ble Manoj Kumar Gupta, Acting Chief Justice
Hon'ble Kshitij Shailendra, J.

1. The instant petition has been filed for a mandamus commanding respondent Nos.3 and 5 to send the application form of the petitioners dated 10.08.2018 alongwith the report of Up-Ziladhikari to the State Environment Impact Assessment Authority for consideration.
2. Alongwith the counter affidavit, the respondents have brought on record the order dated 03.02.2019, by which, application of the petitioners for grant of consent to establish the brick-kiln was rejected and also order dated 22.02.2021 passed under Section 31-A of the Air (Prevention And Control Of Pollution) Act, 1981 (hereinafter referred to as 'the Act, 1981') for closure of the Unit forthwith.
3. Although the petitioner has filed an application praying for amendment in the writ petition so as to challenge the aforesaid orders but counsel for the U.P. Pollution Control Board opposes the application on the ground that the aforesaid orders are appealable before the State Government under Section 31(1) of the Act, 1981.
4. Shri Virendra Singh, learned counsel for the petitioners is not in a position to dispute that against the impugned order, appeal lies to the State Government and it also has power to condone delay if the person filing an appeal is able to satisfy the Authority that he was prevented by sufficient cause from filing the appeal in time.
5. Having regard to the fact that the petitioners have got efficacious alternative remedy available to challenge the aforesaid orders, we decline to examine the validity of the said orders.

6. The writ petition is **disposed of** with liberty to the petitioners to challenge the said orders in appeal, if so advised.

Order Date :- 15.12.2023
Jyotsana

(Kshitij Shailendra, J.) (Manoj Kumar Gupta, A.C.J.)