Court No. - 12

Case :- APPLICATION U/S 482 No. - 12270 of 2023
Applicant :- Avnish Agrawal And 3 Others
Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. U.P. Lucknow And Another
Counsel for Applicant :- Amit Jaiswal Ojus Law
Counsel for Opposite Party :- G.A.,Ashok Kumar Verma

Hon'ble Rajeev Singh,J.

1. Heard Shri Amit Jaiswal Ojus Law, learned counsel for the applicants, Shri A.K. Verma, Special Counsel for U.P. Pollution Control Board and perused the record.

2. Present application has been moved by the applicants for quashing the entire proceedings as well as summoning order dated 26.07.2023 passed by Special Judicial Magistrate Pollution/C.B.I., Lucknow in Complaint Case No.18886 of 2022 titled as UPPCB Vs. M/s Cleo County Pvt. Ltd. & Ors." U/S 43 of Water (Prevention and Control of Pollution) Act, 1974.

3. Learned counsel for the applicants submitted that the impugned summoning order was passed on the complaint fled by the U.P. Pollution Control Board under Section 43 of Water (Prevention and Control of Pollution) Act, 1974 on 26.07.2023 with the conclusion that the previous consent of the Board was not available to the applicants at the time of inspection. He further drew attention of the Court on Annexure No.6 to the application i.e. consent order dated 23.11.2019 issued by the U.P. Pollution Control Board which was valid from 14.05.2019 to 31.12.2021, as the inspection was done on 05.10.2021 and the consent was also valid upto 31.12.2021, therefore, it is a clear case of non-application of mind of the Special Judicial Magistrate, Pollution/C.B.I., Lucknow, therefore, kind indulgence of this Court is necessary.

4. Shri A.K. Verma, Special Counsel for U.P. Pollution Control Board opposed the prayer of applicants but he does not dispute this fact that the consent order dated 23.11.2019 issued by the U.P. Pollution Control Board was valid from 14.05.2019 to 31.12.2021 and the complaint was filed on the ground that STP Plant was not working property but this fact was admittedly not considered by the trial court at the time of passing the summoning order.

5. Considering the submissions of learned counsel for the parties, going through the contents of application, consent order dated 23.11.2019, as well as other relevant documents, as the consent order was valid upto 31.12.2021 but the inspection was conducted on 05.10.2021, as the summoning order was passed merely on the ground that the previous consent was not available at the time of inspection, therefore, it is very much clear that the summoning order was passed without considering all the contents of the complaint, in such, circumstances, this Court is of the view that the order dated 26.07.2023 is liable to be quashed.

6. Accordingly, the application is **disposed of** and summoning order dated 26.07.2023 passed by Special Judicial Magistrate Pollution/C.B.I., Lucknow in Complaint Case No.18886 of 2022 titled as UPPCB Vs. M/s Cleo County Pvt. Ltd. & Ors." U/S 43 of Water (Prevention and Control of Pollution) Act, 1974. is hereby **set aside** and the matter is remanded back with a direction to the Court below to pass an appropriate order in accordance with law within a period of one month from the date of production of certified copy of this order.

Order Date :- 20.12.2023
V. Sinha

Digitally signed by :-
VAISHALI SINHA
High Court of Judicature at Allahabad,
Lucknow Bench