

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15837 of 2012

Arun Choudhary S/O Late Kapil Deo Chaudhary R/O Chaudhary Complex, Kanti Main Road, Muzaffarpur (and Sanrakshak of Kanti Jan Chetna Manch, in front of Sahara Office, Kanti Main Road, Birpur), Muzaffarpur

.... Petitioner

Versus

1. The Chairman, Bihar State Electricity Board, Patna, Bihar
2. The Chairman Cum Managing Director National Thermal Power Corporation, 6th Floor, Core-7, Scop Complex, Lodi Road, Delhi-3
3. The Executive Director, ER-1, H.Q.-NTPC, 2nd Floor, Lok Nayak Jay Prakash Bhawan, Beli Road, Patna
4. The General Manager, Muzaffarpur Thermal Power Station, M/S Kanti Bijli Utpadan Nigam Ltd., P.O.+P.S.- Kanti, District- Muzaffarpur.

.... Respondents

Appearance :

For the Petitioner : Mr. Ajit Kumar Singh, Advocate.
For the N.T.P.C. : Mr. Anil Kumar Sinha, Advocate.
For the Power Company : Mr. Vinay Kirti Singh, S.C., N.B.P.D.C.L.
Mr. Vijay Kumar Verma, Advocate.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-03-2015

The petitioner is a resident of Muzaffarpur and claims to be the Sanrakshak of Kanti Jan Chetna Manch. He filed this writ petition by way of public interest litigation complaining that the respondents who established the Muzaffarpur Thermal Power Station are not complying with the requirements for pollution control. He submits that the respondents are stocking fly ash without taking precautions and that in turn, is leading to spread of the same in the surrounding villages and causing diseases. Another complaint is that the effluents such as water. used in



cooling towers and oil and other substances are being stored in the pits not laced with cement concrete and thereby the ground water in the area is getting polluted. The petitioner also submits that though the power plant has made provision for supply of electricity to the consumers in the radius of five kilometers, the same was not complied with.

The National Thermal Power Corporation Ltd., on the one hand and the North Bihar Power Distribution Company Limited on the other hand filed separate counter affidavits. According to them the writ petition was filed at a time when the installation of the plant was in progress and that the generation of power has been commenced only after complying with all requirements. They also submit that clearance was obtained from the concerned pollution control authorities and agencies.

Heard Sri Ajit Kumar Singh, learned counsel for the petitioner, Sri Anil Kumar Sinha, learned counsel for the National Thermal Power Corporation Limited and Sri Vinay Kirti Singh, learned counsel for the power Company.

The complaint of the petitioner is certainly genuine. The question as to whether the so called deficiencies and defects pointed out in the writ petition are still in existence, could have been verified through agencies like the Pollution Control Board. For one reason or the other, the petitioner did not think it fit to implead the Pollution Control Board either at State or Central

level. It is almost a case which involves serious disputed question of facts.

Be that as it may, being the agencies of the State, the respondents cannot violate the norms stipulated for prevention of pollution. Across at the Bar it is stated that before the generation of power was started the clearance from the Pollution Control Board and other agencies were obtained. All the same, we make it clear that the respondents shall be under obligation to maintain the standards as regards treatment of effluents and storage of the fly ash and ensure that no air, or ground, or water pollution takes place on account of activities undertaken by it.

We, therefore, dispose of this writ petition with a direction to the respondents to comply with the norms stipulated by the Pollution Control Boards and the requirements under other provisions of law and it shall honour its commitment to provide power supply as mentioned in the agreement.

Interlocutory Application, if any, shall stands disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

Chandran/Md.Ibrarul

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(Vikash Jain, J)