

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18296 of 2014

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1. Chandra Kishore Parasar, son of Late Ram Bahadur Singh, Resident of Senapati Bhawan, Parashar Colony, New Area Sikandarpur, P.S. Muzaffarpur Town, District - Muzaffarpur, the Member-Cum-Chairman, Gau Ganga Gram Sarakshan Sambardhan Parishad.

.... Petitioner

Versus

1. The Union of India through the Secretary Ministry of Forest and Environment, Government of India, New Delhi.
2. The Central Pollution Control Board, New Delhi through the Chairman.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Forest and Environment Department, Government of Bihar, Patna.
5. The District Magistrate, Sitamarhi, District - Sitamarhi
6. The Bihar State Pollution Control Board through its Chairman, Beltron Bhawan, Shastri Nagar, Patna.
7. The Regional Officer, Bihar State Pollution Control Board, Regional Office, Muzaffarpur.
8. Riga Sugar Company Ltd., At & P.O.-Riga, District - Sitamarhi, through its Chairman-Cum-Managing Director, Om Prakash Dhanuka, son of Late Pursottam Lal Dhanuka, resident of Riga Sugar Company Ltd., P.O. & P.S.-Riga, District-Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner

: Mr. Vijay Kumar Singh, Adv.

Mr. Pankaj Kumar Singh, Adv.

For the Respondent Nos.3 - 5 : Mr. Alok Ranjan, AC to GA-13

For the Respondent Nos.6 & 7: Mr. Shivendra Kishore, Sr. Adv.

For the Respondent No.8 : Mr. Y.V. Giri, Sr. Adv.

Mr. Ashish Giri, Adv.

For the Union of India : Mr. S.D. Sanajy, Addl. S.G.

Mr. Ram Anurag Singh, C.G.C.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 22-09-2015

Riga Sugar Company Limited, Riga, in the district of Sitamarhi, is a company having its sugar Mill and is engaged in production of sugar through vacuum and process by crushing sugarcane. The industrial waste, produced in the process of manufacturing sugar, is discharged in Lakhan Dei river. Discharge of effluents is controlled and regulated by the provisions embodied under National Environmental Act, 1998 (***hereinafter referred to as "the Act"***), and Environmental Impact Assessment Regulation, 2010 (***hereinafter referred to as "E.I.A. Regulations"***). The company had planned to expand its production from 4500 T.C.D. (Ton Crushing Per Day) to 6000



T.C.D. and power generation project from 8 to 13 mega-watts. Under the Environmental Impact Assessment Notification, 2006, published under Rule 5(3) of Environment (Protection) Rule, 1986, a decision to expand the production capacity of the Mill could be taken only after due publication of public notice in newspapers, inviting objections from the local residents, having plausible stake in environmental impacts of the projects. The provisions require, giving such persons, public hearing in close proximity to the site, by the State Pollution Control Board (***hereinafter referred to as "the Board"***), before decision to expand production is taken.

2. The present application, under Article 226 of the Constitution of India, in the nature of Public Interest Litigation, has been filed seeking a declaration that the decision, taken on 08.08.2014, in the so-called public meeting in terms of the requirements aforesaid, is illegal, inasmuch as it was conducted by the Board in connivance with the Company without giving due opportunity of public hearing to the local residents having plausible stake in the environmental impact of expansion of the project. The petitioner has sought for a direction to the respondent authorities, more particularly, the Bihar State Pollution Control Board, to hold a fresh meeting at an open place after

due publication of notice through Hindi newspapers having circulation in the area concerned.

3. We have heard Mr. Vijay Kumar Singh, learned counsel, appearing on behalf of the petitioner, Mr. Alok Ranjan, learned AC to GA-13, appearing on behalf of the respondent Nos.3 to 5, Mr. Shivendra Kishore, learned senior counsel, appearing on behalf of the respondent Nos.6 and 7, Mr. Y.V. Giri, learned senior counsel, and Mr. Ashish Giri, learned counsel, appearing on behalf of the intervenor-respondent No.8 and Mr. S.D. Sanjay, learned Additional Solicitor General, appearing on behalf of the Union of India.

4. I.A. No.8397 of 2014, seeking impleadment of the Company as respondent No.8, has been filed by Riga Sugar Company Limited, through its Chairman-Cum-Managing Director.

5. In view of the nature of the relief, sought for in the writ application, I.A. No.8397 of 2014 stands allowed.

6. Let Riga Sugar Company Limited, through its Chairman-Cum-Managing Director, be treated to have been impleaded as party respondent No.8 to the writ application and necessary corrections be carried out in the cause title of the writ application accordingly.

7. Counter affidavits have been filed on behalf

of the added respondent No.8 and Bihar State Pollution Board.

8. It is the stand of the Company that there has been no violation of any statutory requirement or norm under the Act or E.I.A. Regulations and it has been claimed that public hearing was held, on 08.08.2014, after due publication of notice in local newspapers in Hindi. It has also been stated in the counter affidavit that in terms of a communication, dated 14.07.2014, issued by the Member Secretary, Bihar State Pollution Control Board, public hearing was held on 08.08.2014. They have taken a plea that it was incorrect, on the part of the petitioner to have questioned the legality of the public hearing, dated 08.08.2014, on the ground that publication of notice of public hearing was made only in English newspapers, consequent upon which, the local residents had no knowledge of the public hearing, which was to be held on 18.08.2014 and, therefore, they could not appear. It is their case that in the course of public hearing, 111 persons had participated. It is their further case that on the basis of the proceedings of the said public hearing, no industrial waste was to be discharged outside the project premises by virtue of expansion of the project.

9. We need not go into the claims and counter claims, as raised by the petitioner and the intervenor

respondent in their pleadings, in terms of the stand taken by the Board in its counter affidavit, inasmuch as this writ application has become, in our considered view, infructuous, because of the decision already taken by the Board. Sub-Para xx to xxii of Paragraph 4 of the counter affidavit, filed on behalf of the respondent Nos.6 and 7, are relevant for the present purpose and are being extracted hereinbelow:-

"xx. That, the Central Pollution Control Board inspected the industry on 12.04.2015 and 13.04.2015 for verification of compliance and to investigate the complaint against the Co. The CPCB vide its letter no. 3186 dated, 24.06.2015 issued a show cause notice under section 5 of the Environment (Protection) Act, 1986 to show cause as to why the units should not be closed down until all the necessary pollution control measures are planned and implemented so as to comply with the prescribed guidelines and effluent discharge standards to the satisfaction of CPCB, a copy of show cause notice is also forwarded to the State Board.

xxi. That, the Central Pollution Control Board vide its letter no. 3574 dated, 13.08.2015 issued directions u/s 5 of the Environment (Protection) Act, 1986, upon M/s Riga Sugar Company

Limited to close down all its manufacturing operation with immediate effect and not to start its manufacturing operation till compliance of direction given therein is undertaken.

xxii. That, the Co. has stopped its operation since 28.06.2015 and its all operation shall remain closed till they get permission from the Central Pollution Control Board."

10. There is no denial of the stand taken by the Board in its counter affidavit, either by the petitioner or by the intervener-respondent, that the Mill is closed since 28.06.2015 and there is no discharge of any effluent in the river, Lakhan Dei. The cause of action itself, thus, does not survive.

11. This proceeding stands closed, accordingly.

12. It goes without saying that the petitioner shall have liberty to take recourse to law, as he may be advised, if any cause of action arises, in future, in this regard.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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