

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18271 of 2013

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Md. Ali, S/O Late Md. Shafique, resident of Village- Manjhawalia, P.S-
Madhawraha, District- Saran. Petitioner.

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
 2. Bihar State Pollution Control Board through Its Member Secretary,
Beltron Bhawan, Shastri Nagar, Patna. Respondents
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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate
: Mr. Arbind Kumar Singh, Advocate
For the Respondent/s : Mr. Shivendra Kishore, Sr. Advocate
: Mr. Binita Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

4 06-10-2015 Heard learned counsel for the petitioner and the
respondents.

2. The petitioner filed an application on 15.03.2013 seeking “No Objection Certificate” for establishment of Bone Mill in village Manjhaulia, P.S. Marhaura in the district of Saran. The Member Secretary, Bihar State Pollution Control Board vide letter dated 19.06.2013 issued show-cause notice to the petitioner as to why the application seeking “No Objection Certificate” be not rejected, as it is situated at the distance of only 30 Meters from the State Highway no. 90 (Chapra-Masrak), as against requirement of 2 KM.

3. On 02.07.2013, the petitioner submitted his reply to the show-cause dated 19.06.2013. On consideration of the reply, the Bihar State Pollution Control Board vide letter dated

19.07.2013 rejected the application of the petitioner seeking “No Objection Certificate”, as the Bone Mill is situated at the distance of only 30 Meters from the State Highway no. 90 (Chapra-Masrakh). Being aggrieved, the petitioner has filed the instant writ application.

4. Both the petitioners and the learned counsel appearing for the Bihar State Pollution Control Board has relied upon recommendation Clause 1 of the guidelines of Central Pollution Control Board, dated 04.01.1996. Guide line no.1 states that the Bone mills be located away from the habitation, at least at a distance of not less than 2 K.M.

5. The petitioner does not dispute that the Bone Mill is to be established as per the recommendations of the Central Pollution Control Board. His contention is that he fulfills the necessary requirements under in the guidelines. He submits that his Bone Mill is not located within 2 K.M. from any habitation.

6. On the other hand Mr. Shivendra Kishore, learned senior counsel appearing on behalf of Pollution Board, submits that the location is only 50 meters away from the National Highway and as such it is within the parameter of 2 K.M. laid down by the Central Pollution Control Board.

7. In reply, the petitioner submits that the State

Highway would not come within the habitation. The term habitation would mean human habitation. There is no human habitation in or about the Highway. Furthermore, in his application, he has stated that location of his Bone Mill is situated 3 K.M. away from the human habitation.

8. One of the primal issues is whether a Highway would come within the meaning of habitation as mentioned in Annexure-VII of Central Pollution Control Board.

9. As there is an alternative remedy of appeal, this Court would not like to enter into the issue. The writ application is disposed of with liberty to the petitioner to take resort to remedy of appeal. In case, an appeal is filed, delay in filing the same would be sympathetically considered, as the petitioner was pursuing his remedy before this Court. It is expected that the appeal would be disposed of within a period of three months from the date of receipt/production of a copy of this order.

10. It is relevant to state that this Court has not expressed any opinion on the merit of the case.

11. This application stands disposed of.

(Samarendra Pratap Singh, J.)

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