

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.642 of 2015

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Sushil Kumar Singh @ Chunchun Singh, Son of-Gauri Shankar Singh, Resident of Village-Karsaut, Police Station-Daraunda, District-Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Mining, Government of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Sub-Divisional Officer, Maharajganj, Siwan.
4. The competent officer-cum-Mines Inspector, Siwan.
5. The S.H.O. Daraunda Police Station, Siwan.
6. Ram Krishna Singh proprietor of Kaka Int Udyog at Karsaut, Son of Sri Shio Pujan Singh, Resident of Village-Karsaut, Police Station-Daraunda, District-Siwan.
7. The Bihar State Pollution Control Board through its Secretary, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Anil Kumar Singh, Adv.

For the Respondents : Mr. Sudhir Kumar Singh, A.C. to G.A.-4

Mr. Rajendra Prasad, Sp. P.P.

Mr. Devendra Kr. Sinha, Sr. Adv.

Mr. Shivendra Kishore, Sr. Adv.

Mr. Prabhakar Singh, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

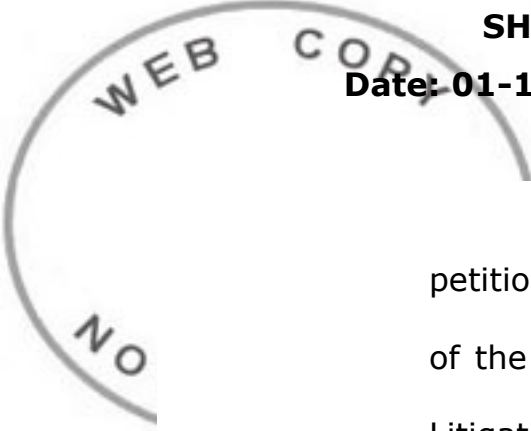
And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH)

Date: 01-10-2015



Before we advert to the grievance raised by the petitioner, in the present application filed under Article 226 of the Constitution of India, in the nature of Public Interest Litigation (PIL), we take note of a notification, dated 26.03.2009, issued by the Bihar State Pollution Control Board, Bihar, Patna (***hereinafter referred to as the "Board"***), in compliance with the provisions under Sections 17 and 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 and Sections 17 and 21 of the Air (Prevention and Control of Pollution) Act, 1981, which reads thus:-

"The proposed Brick-Kiln shall observe a minimum distance of 200 meters from residential area (having 200 permanent dwellers or more), Govt. Schools, Govt. Sponsored Schools, Schools Recognized by C.B.S.E., I.C.S.E."

2. We have heard learned counsel, appearing on behalf of the parties.

3. The petitioner has, in the present proceeding, sought for a direction to the respondents to ensure closure

of the brick-kiln, being run by respondent No.6, as according to him, the Emission Consent Order, granted to him by the Board for running the brick-kiln, is in conflict with the said statutory notification, dated 26.03.2009, inasmuch as there is a government school located within the radius of 200 meters from the said brick-kiln.

4. Counter affidavit has been filed on behalf of the Board, wherein there is no denial of the fact that the location of the said school is within 200 meters from the said brick-kiln, which is said to be 186 meters away from the brick-kiln run by the respondent No.6.

5. Pursuant to an order of this court, Mr. Awadhesh Kumar Ojha, the Member Secretary, and Mr. Anil Kumar, Assistant Environmental Engineer, Bihar State Pollution Control Board, Bihar, Patna, are personally present and have filed an affidavit, bringing on record an order, passed under the signature of the Chairman of the Board, dated 29.09.2015, whereby the Emission Consent Order, granted earlier to respondent No.6, has been cancelled, after giving him opportunity of hearing, on the ground that grant of Emission Consent Order was contrary to the said statutory notification, dated 26.03.2009. With the passing of the order, dated 29.09.2015, in our opinion, grievance of the petitioner in the present PIL, stands substantially redressed.



6. Learned counsel, appearing on behalf of the respondent No.6, has, however, submitted that the petitioner was earlier granted Emission Consent Order, after due verification, and the present writ application has been filed by the petitioner out of vengeance, because of the dispute between respondent No.6 and the petitioner at local level. He has also submitted that when the petitioner had earlier established brick-kiln over the land, bearing Khata No.493, Survey Plot Nos.931 and 934 (Thana No.573) and Khata No.306, Survey Plot No.933, Tauzi No.5974, the said school was located beyond 200 meters from the said plot. Subsequently, certain additional constructions were made for the school, which lessened the distance from brick-kiln to the school. It is, however, not his contention that respondent No.6 ever raised any objection over construction of school building, within 200 meters from the said brick-kiln.

7. We do not find much substance in submission made on behalf of the respondent No.6, for the purpose of present Public Interest Litigation, keeping in view that he has statutory remedy of preferring an appeal against the order passed by the Board, dated 29.09.2015. In view of the facts, aforementioned, and the fact that the petitioner's grievance has substantially been redressed, we do not intend to proceed any further in the present matter.

8. This proceeding, accordingly, stands closed.

9. It goes without saying that respondent No.6 shall be at liberty to question the legality of the order, dated 29.09.2015, brought on record by way of Annexure-F to the supplementary counter affidavit filed on behalf of the respondent No.6, before appropriate forum in accordance with law.

10. The personal appearance of the Member Secretary and Assistant Environmental Engineer, Bihar State Pollution Control Board, Bihar, Patna, stands dispensed with.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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