

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20002 of 2016

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M/s H. M. Craft through its proprietor Hem Kumar S/o Late Sadanand Das resident of Shivaji Nagar, P.S. Rupashpur, District - Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. The Chief Conservator of Forest, Bihar, Patna.
3. The Divisional Forest Officer, Patna.
4. The Member Secretary, Bihar, through Pollution Board, Beltron Bhawan, Shastri Nagar, Patna.
5. The District Magistrate, Patna.
6. The Senior Superintendent of Police, Patna.
7. The Subdivisional Officer, Danapur, Patna.
8. The Dy. S.P. Danapur, Patna.
9. The S.H.O. Rupaspur, Police Station - Danapur, District - Patna.
10. Sri Rabindra Kumar Sinha S/o not known resident of Shivaji Nagar, South West Canal Road, Jalalpur, P.S. Rupaspur, District - Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Adv.
For the Respondent/s : Dr. Kamaldeo Sharma, AC to GA-11
For the Board : Mr. Shivendra Kishore, Sr.Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-12-2017

Heard Mr. Vinay Mistry, learned counsel for the petitioner,

Dr. Kamaldeo Sharma, learned AC to GA-11, for the State and Mr.

Shivendra Kishore, learned Senior Counsel appearing for the

Pollution Control Board alongwith Ms. Binita Singh.

The petitioner is aggrieved by the order of the Sub-Divisional Officer, Danapur bearing Memo No. 637 dated 4.8.2016 whereby he has been asked to stop operation of the saw mill run in the name and style of M/s H.M.Craft.

While it is not in dispute that the petitioner has a valid



licence under the Bihar Saw Mill (Regulation) Act, 1990 and the Rules framed thereunder, it is also true that it is not for violation of condition of licence that the purported action has been taken rather it is because in the opinion of the authorities of the Pollution Control Board acting pursuant to a complaint filed in this regard, the running of the saw mill within the residential area and the noise pollution so created, was beyond the prescribed limit coupled with the fact that even though the petitioner had obtained a 'Consent To Establish' order bearing No. T-18089 dated 26.12.2011 which was valid for six months and within which period the petitioner was required to obtain 'Consent To Operate' order, under the provisions of the Air (Prevention and Control of Pollution) Act, 1981, but he defaulted with the result that the application of 'Consent To Establish' order has lapsed rendering operation of the saw mill within the residential area illegal, that the orders have been passed. These facts stands pleaded in paragraph 6 of the counter affidavit filed on behalf of the Board and has not been contested by the petitioner.

Although it is stated by Mr. Mistry, learned counsel for the petitioner, that a fresh application has been filed by the petitioner for seeking a 'Consent To Establish' but such argument has been contested by Mr. Shivendra Kishore, learned Senior Counsel for the Board, to submit that since the saw mill is situated in a residential area



until such time that the petitioner shifts the location of the saw mill to an approved area which is beyond the residential area and is acceptable to the Board, the application cannot be acted upon. He submits that the order under challenge is a mere compliance of the opinion of the Board, who have refused operation of the saw mill in view of the circumstances discussed.

Having heard learned counsel for the parties, no cause for indulgence is made out to the orders impugned, in the circumstances noted.

The writ petition is disposed of leaving it open to the petitioner to act in accordance with law, if he wishes to run his saw mill.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	NA

