

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19410 of 2016

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M/s Omi Int. Udyog at Mauza - Village Dharmban, P.O. Khajedih, P.S. - Ladania,
District Madhubani through its Proprietor Yogendra Jha S/o Late Bhuwan Jha
resident of village & P.O. Mahrail, P.S. - Rudrapur, District - Madhubani.

.... Petitioner

Versus

1. The Member Secretary, Bihar State Pollution Control Board, Patna.
2. The State of Bihar through the Collector cum District Magistrate, Madhubani.
3. The Circle Officer, Phulparas, District - Madhubani.
4. The Superintendent of Police, Madhubani.
5. The Dy. S.P. Jainagar, District - Madhubani.
6. The Officer in charge, Ladania Police Station, District - Madhubani.
7. The Chowkidar, Ladania Police Station, District - Madhubani.
8. The Chairman (Sri Subhash Chandra Singh) Bihar State Pollution Control Board, Beltron Bhawan, Shastri Nagar, Patna - 23.
9. The District Mining Officer, Madhubani, District - Madhubani.

.... Respondents

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Appearance :

For the Petitioner	: Mr. Binod Kumar, Advocate
For the State	: Mr. Sajid Salim Khan- SC25
	Ms. Prakritita Sharma, AC to SC 25
For the respondent-Board:	Mr. Shivendra Kishore, Sr. Advocate
	Ms. Binita Singh, Advocate
For Respondent No. 9	: Mr. Naresh Dixit, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-11-2017

The present writ petition has been filed for quashing the order contained in letter no. 277 dated 15.03.2016 issued by the Collector, Madhubani and contained in Memo No. T-1528 dated 08.04.2016 (Annexures 4 and 5) issued by the Superintendent of Police, Madhubani whereby the operation and function of the petitioner-Int. Udyog has been closed by deputing Officer in charge and Chowkidar of Ladania Police Station; and for connected reliefs.

2. To cut short the matter, reference has been made to the order dated 17.10.2017 by which this Court took note of the conflicting



stand between the Bihar State Pollution Control Board (for short, “the Pollution Control Board”) in its counter affidavit granting consent to the petitioner for establishing and running the brick-kilns and the letter of the Chairman dated 12.01.2016 directing closure of the brick-kilns. This Court required the Pollution Control Board to take a clear cut stand with regard to the industry of the petitioner. But however, no further counter affidavit has been filed on behalf of the Pollution Control Board.

3. Learned counsel for the Pollution Control Board is unable to resolve apparent conflict pointed out. It is however stated that the letter of the Chairman has been issued on 12.01.2016 whereas the counter affidavit on behalf of the respondent nos. 1 and 8 has been filed subsequently on 13.02.2017 and as such the facts stated in the counter affidavit is the last expression of the intent of the Pollution Control Board.

4. Paragraph 6 of the counter affidavit states as follows –

“6. That from the pleading in the writ application and the annexures attached with the writ application it transpires that State Environment Impact Assessment Authority, Bihar (SEIAA for short) vide its letter Ref. No. 545 dated 29.09.14 has granted environmental clearance in favour of petitioner, the State Board has granted consent to establish (CTE) vide memo No. T-89 dated 06.01.15 and the Regional Officer, Muzaffarpur of the State Board has granted consent to operate order dated 14.12.15 until 31.03.2018 and thereby the petitioner fulfills the condition of establishment and operation of the brick-kiln.”



5. Learned counsel for the Pollution Control Board accordingly requests that the writ petition may be disposed of in terms of the stand taken in the counter affidavit.

6. In the above view of the matter, the impugned letter no. 277 dated 15.03.2016 issued by the Collector, Madhubani as well as Memo No. T-1528 dated 08.04.2016 issued by the Superintendent of Police, Madhubani are hereby quashed and the petitioner may proceed in the background of the statements made in paragraph 6 of the counter affidavit as aforesaid.

7. The writ petition stands allowed to the extent as stated above.

8. The petitioner shall be at liberty to take recourse to law before the appropriate forum for claiming compensation in accordance with law, if so advised.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.11.2017
Transmission Date	N.A.

