

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3187 of 2017

Sanjay Kumar Malviya

... .. Petitioner/s

Versus

The State Of Bihar & Ors

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. SARVESH KUMAR SINGH- AAG13
For Pollution Control Board:		Mr. Shivender Kishore, Sr. Advocate
		Mrs. Binita Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-09-2017

This writ petition has been filed in public interest and the grievance of the petitioner is that fly ash and other waste materials are being discharged by the National Thermal Power Corporation into the agricultural land and consequently the farmers are suffering.

On notice being issue, the Bihar State Pollution Control Board has filed a detailed reply and in paras 8 to 12 of the same assertion is made by the Board which goes to show that as on date there is no discharge of polluted air or waste materials into the agricultural land. Some time in the year 2013-2014 and 2014-2015, as indicated in para 10 of the reply, there



was some discharge of polluted air and waste materials for which the District Administration is already taking steps for payment of compensation. Para 8 to 12 of the reply read as hereinbelow:

“8. That water was observed in the ditches along with ash slurry disposal pipeline and borrowed land near ash dyke. There is no any discharge point from the slurry pipelines originating from the plant to ash dyke.

9. That from the record available in the State Board, it transpired that the ashes were disposed only once at the time of trial and since then entire ash/slurry/waste water flows directing to the ash pond/dyke without any leakage, as such, there is no damage of agriculture land. However, State Board has issued direction to NTPC Barh that under no circumstance they will discharge polluted water in agricultural land.

10. That the complaint was received in the office of State Board alleging therein in regard to leakage of fly ash in the agriculture land in the financial year 2013-14, and 2014-15 causing loss of crop and claimed of compensation and in response thereto the complaints have been forwarded to the District administration Patna since matter pertaining to claim and compensation relates to district administration. The above fact shall be evident from letter No.410 dated 21.04.2015. (Annexure-)-2).

11. That it is stated that NTPC Barh has all pollution control equipments and is in process of installation of flue gas, desulphurization system (FGD) SYSTEM which will help in improving the emission level of SO₂ .

12. That the writ application may be disposed of directing respondent no.4 to 6 to access the loss sustained by the cultivators due to leakage of fly ash in the F.Y.-2013-14, and 2014-15 and the



district administration be directed to consider for payment of appropriate claim and compensation to the farmers for the losses sustained by them.”

In view of the above, no further indulgence into the matter at the instance of the petitioner in this Public Interest Litigation is called for. Any individual who has any grievance with regard to the damages caused to him because of the alleged discharge of polluted and waste material in the years 2013-2014 and 2014-2015, they are granted liberty to make a claim before the District Administration and the District Administration shall proceed to decide the same in accordance with law.

With the aforesaid liberty to the individual concerned, as no indulgence into the matter is called for in view of the counter affidavit filed by the Bihar Pollution Control Board, this Public Interest Litigation is disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	8.9.2017
Transmission Date	

