

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12019 of 2018

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Durga Paswan, son of Late Subran Paswan, Resident of Village- Betounha,
P.S. Jainagar, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Environment & Forest, Government of Bihar, Patna
2. The Principal Secretary, Department of Environment & Forest,
Government of Bihar, Patna
3. The Chairman Bihar State State Pollution Control Board, Parivesh Bhawan,
Patliputra Udyog Road, Patna- 800001
4. The Regional Officer, Muzaffarpur, Bihar State Pollution Control Board,
Regional Office, Muzaffarpur
5. The District Magistrate, Madhubani
6. The Superintendent of Police, Madhubani
7. The Assistant Mining Officer, Madhubani
8. The Sub Divisional Officer, Jainagar, Madhubani
9. The Circle Officer, Jainagar, Madhubani
10. M/s New Gopal Int Udyog through its proprietor Sri Dilip Kumar Mahto,
situated at Belhi, Betounha, P.O. Bela, Madhubani, District- Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siddhartha Prasad, Advocate Mr. Kaustabh, Advocate
For the State	:	Mr. Sarvesh Kumar Singh- AAG-13
For the Pollution Board	:	Mr. Shivendra Kishore, Sr. Advocate Mrs. Binita Singh, Advocate
For the Mining Department:		Mr. Naresh Dikshit, Advocate Ms. Kalpana, Advocate
For Private Respondent	:	Mr. Kumar Ravish, Advocate



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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-07-2018

This Public Interest Litigation has been filed inter alia contending that Respondent No. 10 has established an Industrial Unit in the district of Madhubani. Various statutory provisions under the Pollution Control Act are being violated and, therefore, environmental issues have arisen and contending violation of the Pollution Control Laws and threat to the environment at large this writ petition has been filed in public interest under Article 226 of the Constitution.

After coming into force of the National Green Tribunal Act, 2010 and the provisions of Section 14 therein, the jurisdiction of this Court to deal with environmental matters stands taken away and vested in the Green Tribunal and thereafter against the order passed by the Tribunal, the matters have to be agitated before the Supreme Court.

However, normally this Court even though would not have exercised jurisdiction in such cases, however, as a Tribunal has not been constituted in the State of Bihar, in



exceptional circumstances, this Court has exercised its jurisdiction under Article 226 of the Constitution and invoked its writ jurisdiction only because a Tribunal is not functional in the State of Bihar. However, in this case, we find that an exception is not made out, for the simple reason that the matter was agitated before the National Green Tribunal in Kolkata. Various orders were passed and now it is stated that the Pollution Control Board is not taking action as was directed by the Green Tribunal and pointing out certain violation, the writ petition has been filed.

It is stated that the Pollution Control Board has issued some letter for closure in spite thereof, the action is not being taken, which fact is seriously disputed by the counsel representing the Pollution Control Board.

Be it as it may be, once we are convinced that the jurisdiction to deal with such matters vests with the National Green Tribunal and when we also find that the issue in question was already dealt with by the National Green Tribunal, Eastern Zone Bench at Kolkata in O.A. No. 164/2016/EZ, we see no reason to make any indulgence into the matter. Petitioner, if advised, may invoke the jurisdiction of the National Green Tribunal, Kolkata and it would be for the Green Tribunal to deal



with the issue in question and decide the same.

Apart from the aforesaid, for deciding the issue in question, this Court would be required to interpret the order earlier passed by the National Green Tribunal, Kolkata in O.A. No. 164 of 2016/EZ. The jurisdiction to deal with the same vests solely with the Hon’ble Supreme Court and not with us in view of the provisions of Section 16 of the Act and, therefore, on this ground also, we see no reason to make any indulgence into the matter.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	17.07.2018
Transmission Date	

