

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15962 of 2018

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Suman Kumar Jha, Son of Late Laxman Jha, Resident of Village and P.O.- Rasiari, Ward No. 7, P.S. Ghanshyampur, District- Darbhanga Proprietor of M/s Patla Int Udyog, Village and P.O.- Rasiari, Ward NO. 7, P.S. Ghanshyampur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Industrial Estate Bela, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 15991 of 2018

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Arvind Kumar Jha Son of late Jata Shankar Jha Resident of Village- Balani, P.O. and P.S.- Bahera, District- Darbhanga Proprietor of M/S Satyam Int Udyog, Situated at Mauja- Basudeopur Majhaura, P.O. and P.S. Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry , Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.



6. The Chairman, the Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Sarai Syed Ali Road, Technical Chowk, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16107 of 2018

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Shashidhar Jha Son of Sri Ram Shankar Jha, Resident of Village and P.O. Gonoun, P.S.- Ghanshyampur, District - Darbhanga Proprietor of M/s Heera Int Udyog, situated at Village and P.O. Gonoun, P.S. - Ghanshyampur, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur Sarai Syed Ali Road, Technical Chowk, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16638 of 2018



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Ram Baran Mishra, Son of Late Baidya Nath Mishra, Resident of Village-
Mahinam, P.S.- Bahera, District- Darbhanga Proprietor of M/s Bhushan Int
Udyog.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Industrial Estate, Bela, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16539 of 2018

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Ajay Kumar Jha, Son of Surendra Narayan Jha, Resident of Village-
Rupnagar, P.O- Neuri, P.S. and block Biraal, District- Darbhanga Proprie-tor
of M/S Gaurav Bricks Udyog, situated at Mauja and P.O.-Korthu, P.S. and
Block- Ghanshyampur, District-Darbhangha.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board,



- Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office of the Bihar State Pollution Control Board, Muzaffarpur, Sarai Syed Ali Road, Technical Chowk, Muzaffarpur.
 9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
 10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
 11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
 12. The District Mining Officer, Darbhanga.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16543 of 2018

=====

Mithilesh Kumar Sharma, Son of Late Dinesh Chandra Mishra, Resident of Village and P.O.- Asi, Via and P.S. and Block- Biraul, District- Darbhanga Proprietor of M/s Kumar Bricks Udyog Mauza- Kasrour, P.O.- Balthari, P.S.- Ghanshyampur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna. null null
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Industrial Estate, Bela, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16774 of 2018

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Krishna Kumar Jha, Son of Pitambar Jha, Resident of Village and P.O.-Neuri, Ward no.5, P.S.-Biraul, District- Darbhanga Proprietor of M/S S.S.K. Int Udyog, situated at and P.O.-Neuri, P.S. and Block. Biraul, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Sarai, Syed Ali Road, Technical Chowk, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, the State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 16537 of 2018

Nathuni Jha, Son of Batuki Jha, Resident of Village and P.O.- Mahinam, District- Darbhanga, Proprietor of M/s India Bricks Industries, situated at Mauja and P.O.- Neuri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.



8. The Regional Officer, Regional Office, Muzaffarpur, Sarai Syed Ali Road, Technical Chowk, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, , Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16350 of 2018

=====

Anil Kumar Jha, Son of Tej Narayan Jha, Resident of Village and P.O.- Kasraur, P.S.- Ghanshyampur, District- Darbhanga Partner of M/s Maa Jwala Int Udyog, situated at Mauja- Bais Lagma, P.O.- Balthari, P.S.- Ghanshyampur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Sarai Syed Ali Road, Technical Chowk, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 16359 of 2018

=====

Jitendra Kumar Mishra, Son of Babu Narayan Mishra, Resident of Village and P.O- Mahinam, District- Darbhanga, Proprietor of M/s J.K. Bricks Industries, situated at Mauja-Panchepatti, P.S.- Benipur, District- Darbhanga.



... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
7. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Sarai Syed Ali Road, Technical Chowk, Muzaffarpur.
9. The State Environment Impact Assessment Authority, Bihar Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 16773 of 2018

Ram Mohan Jha, Son of Rashbihari Jha, Resident of Village and P.O.-Kasraur, District-Darbhangha Proprietor of M/s Kisan Int Udyog, Situated at Mauja-Korthu, P.S.-Ghanshyampur, District-Darbhangha.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna. Government of Bihar, Patna.
4. The Principal Secretary, Department of Mines & Geology, Govt. of Bihar, Patna.
5. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
6. The Chairman, The Bihar State Pollution Control Board, Paryavaran BHawan, PatliPutra Industrial Area, Patna.
7. The Member Secretary, the Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area, Patna.
8. The Regional Officer, Regional Office, Muzaffarpur, Sarai, Syed Ali Road, Technical Chowk, Muzaffarpur.



9. The State Environment Impact Assessment Authority, Bihar, Patna through its Member Secretary, Beltron Bhawan, Shastri Nagar, Patna.
10. The Chairman, the State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Shastri Nagar, Patna.
11. The Collector, Darbhanga District at Collector, Darbhanga District at Collectorate Compound Laheria Sarai, Darbhanga.
12. The District Mining Officer, Darbhanga.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 18670 of 2018

Bimal Chandra Khan, Son of Ram Swarup Khan, resident of Village- Aso, P.S.- Kusheshwar Asthan, Aso District- Darbhanga Proprietor of M/S T.K & Co, situated at Village- Kachhua, P.S.- Kusheshwar Asthan, Aso, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary Department of Forest and Environment, Govt. of Bihar, Patna.
3. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryavaran Bhawan, Patliputra Industrial Area Patna.
4. The Chairman, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area Patna.
5. The Member Secretary, The Bihar State Pollution Control Board, Paryavaran Bhawan, Patliputra Industrial Area Patna.
6. The Regional Officer, Regional Office of The Bihar State Pollution Control Board, Muzaffarpur, Industrial Estate, Bela, Muzaffarpur.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 15962 of 2018)

For the Petitioner/s : Mr.

For the Respondent/s : Ms. Shalini Rai, Advocate

(In Civil Writ Jurisdiction Case No. 15991 of 2018)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 16107 of 2018)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 16638 of 2018)

For the Petitioner/s : Mr. Abhay Kumar Thakur, Advocate

For the State : Mr. Shakib Ajaz, Advocate

For the Board : Mr. Shivendra Kishore, Sr. Advocate

For the Mines Department: Mr. Naresh Dikshit, Special P. P.

(In Civil Writ Jurisdiction Case No. 16539 of 2018)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

(In Civil Writ Jurisdiction Case No. 16543 of 2018)

For the Petitioner/s : Mr.



For the Respondent/s : Mr.
(In Civil Writ Jurisdiction Case No. 16774 of 2018)
For the Petitioner/s : Mr. Abhay Kr. Thakur, Advocate
For the State : Mr. Anant Prasad Singh, SC-15
(In Civil Writ Jurisdiction Case No. 16537 of 2018)
For the Petitioner/s : Mr. Abhay Kumar Thakur, Advocate
For the State : Mr. Shakib Ajaz, Advocate
For the Board : Mr. Shivendra Kishore, Sr. Advocate
For the Mines Department: Mr. Naresh Dikshit, Special P. P.
(In Civil Writ Jurisdiction Case No. 16350 of 2018)
For the Petitioner/s : Mr.
For the Respondent/s : Mr.
(In Civil Writ Jurisdiction Case No. 16359 of 2018)
For the Petitioner/s : Mr. Abhay Kr. Thakur, Advocate
For the State : Mr. Anant Prasad Singh, SC-15
(In Civil Writ Jurisdiction Case No. 16773 of 2018)
For the Petitioner/s : Mr.
For the Respondent/s : Mr.
(In Civil Writ Jurisdiction Case No. 18670 of 2018)
For the Petitioner/s : Mr. Abhay Kumar Thakur, Advocate
For the State : Mr. Shakib Ajaz, Advocate
For the Board : Mr. Shivendra Kishore, Sr. Advocate
For the Mines Department: Mr. Naresh Dikshit, Special P. P.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-12-2018

Heard learned counsel for the petitioners; Special P.P.,
Department of Mines, Government of Bihar and Bihar State
Pollution Control Board (hereinafter referred to as the 'Board').

2. The challenge in the writ petitions is to the decision of
the Board by which they have taken a decision that all existing
brick kiln units have to shift to Cleaner Technology by 31.08.2018
and without that, their license shall not be renewed, and with
regard to new license also the same decision applies. However, the
consideration in the present case is restricted to the decision of the
Board only with regard to the pre-existing brick kiln units.



3. Learned counsel for the petitioners submitted that the Ministry of Environment, Forest and Climate Change, Government of India, has granted a moratorium of two years to change to Cleaner Technology, but the Board has given time only till 31.08.2018, which is impractical and also arbitrary. Learned counsel submitted that the petitioners do not oppose the direction to convert to Cleaner Technology but at the same time, the practical aspect cannot be lost sight of, as, for changing the entire technology to Cleaner Technology from pre-existing coal based technology cannot be done within a span of a few months. It was submitted that the same having financial implications, the authorities are required to take a pragmatic view as the petitioners also are depending for livelihood on such units.

4. Learned counsel for the respondents submitted that since over a year, the exercise was undertaken and on 11.10.2017, there was a notification directing for taking affidavits from the operators that by 31.08.2018, they would change over to Cleaner Technology. Learned counsel submitted that the petitioners have also given such undertaking by way of an affidavit.

5. The attention of the Court was further drawn to the notification dated 15.10.2018 of the Board which indicates that such units which had given affidavit that they would shift to



Cleaner Technology by 31.08.2018, they would not be given any further Consent to Operate (C.T.O.) and Consent to Establishment (C.T.E.). However, a further clause indicates that such units which had not given the affidavit that they shall be converting to Cleaner Technology by 31.08.2018, in those cases, the time for doing so was extended till 31.08.2019. It was, thus, submitted that in the present case, all the petitioners have been given an affidavit/undertaking to shift to Cleaner Technology latest by 31.08.2018. They are bound to do so as per their own commitment and, thus, the decision not to give them C.T.O. beyond 31.08.2018, without use of Cleaner Technology is justified.

6. Having considered the facts and circumstances of the case, the Court, before coming on the merits, would indicate that in principle, there cannot be any exception to the decision of the Board and the authorities for ensuring that to protect the environment such measure was required as brick kiln units are a cause of major concern towards all the atmospheric pollution. Thus, the Court finds the decision of the Board with regard to the requirement to shifting to Cleaner Technology to be correct, fair and in fact both required and justified.

7. However, coming to the main issue involved in the present writ applications with regard to cut off date, the Court



finds that in view of the decision taken by the Board itself, as contained in the notification no. 33 dated 15.10.2018, copy of which has been brought in the counter affidavits filed on behalf of the respondents, creation of two groups among the pre-existing units is arbitrary and unsustainable. The said distinction relates to not issuing of a C.T.O to such pre-existing units which have given an undertaking/affidavit that by 31.08.2018 they would be shifting to Cleaner Technology, whereas, with regard to pre-existing units, which had not given such undertaking/affidavit, the cut off date is 31.08.2019. The Court finds that the units which had fallen in line and which had given such undertaking/affidavit have in fact been made into a separate class, and have been visited with penal consequences as compared to the group which had not given any undertaking/affidavit, in whose case, they have been given a premium of further one year to convert to Cleaner Technology. This, in the considered opinion of the Court is not sustainable, being both discriminatory and without any sound rationale. Had the Board not taken a decision to give the benefit beyond 31.8.2019, in case of all pre-existing units, the Court would not have had any occasion to interfere. However, as has been indicated above, giving premium to pre-existing units who have chosen not to give undertaking for shifting to Cleaner Technology beyond



31.08.2018, by giving them further one year time till 31.08.2019, has to be interfered with as there has to be one single category/group for all pre-existing units. As the Board itself has taken a decision to grant time till 31.08.2019, which the Court also feels is reasonable, the direction not to issue C.T.O. to pre-existing units, which have given undertaking/affidavit that they shall shift to Cleaner Technology by 31.08.2018, stands quashed. All pre-existing units, uniformly without any distinction, shall be required now to change to Cleaner Technology latest by 31.08.2019. The Court makes it clear that such time is more than sufficient and is basically in public interest and for safeguarding further pollution to the atmosphere. The Court also records that the petitioners have specifically undertaken that they would shift to Cleaner Technology latest by 31.08.2019.

8. The writ petitions stand allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

P. Kumar

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