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HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 130 of 2017**

Tej Ram Manjhi S/o Hans Ram Manjhi, Aged About 46 Years R/o Village Punjipatara, District Raigarh, Chhattisgarh., Chhattisgarh

---- Petitioner

Versus

1. Union Of India The Secretary, Ministry Of Environment And Forests, Paryavaran Bhawan, C. G. O. Complex, Lodhi Road, New Delhi., Delhi
2. State Of Chhattisgarh, Through The Secretary, Health Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Director, Health And Medical, Directorate, Indrawati Bhawan, Raipur, Chhattisgarh., : Raipur, Chhattisgarh
4. Chief Medical And Health Officer, Raigarh, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
5. Regional Officer, Chhattisgarh Environmental Board, Raigarh, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
6. Chhattisgarh Environment Conservation Board, Through The Member Of Secretary, 1- Tilak Nagar, Shiv Mandir Chowki, Main Road, Avanti Vihar, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
7. Collector, Raigarh, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
8. Shriram Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
9. Ganga Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
10. Tirumala Balaji Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
11. Shobha Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
12. Harsh Uraon Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
13. Radhe Givind Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
14. Plan Banjari Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
15. Ureka Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
16. Show Project Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
17. Vandana Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
18. B. A. Power Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
19. J. P. Glover Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
20. Nirmala Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

21. Peak Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
22. Alok Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
23. Sain Ram Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
24. Jagdamba Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
25. Narmada Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
26. Aryan Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
27. Jeevan Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
28. Mahendra Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
29. Shri Balaji Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
30. Suryoday Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
31. Mamta Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
32. Shri Kausal Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
33. Oxygen Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
34. Jindal Power Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
35. S. R. Plant Power, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
36. Jindal Fabrication, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
37. Ajay Rolling, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
38. Banke Hihari Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
39. Raigarh Iron, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
40. Skani Power Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
41. Skani Steel Plant, Through Its General Manager, Punjipatara, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Respondents

For Petitioner	: Shri Hamida Siddiqui, Advocate.
For Respondent/UIO	: Shri B. Gopa Kumar, Assistant Solicitor General.
For Respondent/State	: Shri Yashwant Singh Thakur, Additional Advocate General.
For Respondent/ECB	: Shri Animesh Tiwari, Advocate.
	: Shri Saurabh Dangi, Advocate appears as <i>Amicus Curiae</i> .

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

03/05/2018

1. This writ petition is instituted as a 'Public Interest Litigation' bringing to the notice of this Court the pathetic situation of the people living in the limits of different Panchayats in the District of Raigarh; their life and health being exposed to multifarious challenges by industrial activities in that area. The Petitioner has produced different materials which would inspire due action.
2. We have heard the learned counsel for the Petitioner, the learned Assistant Solicitor General of India and the learned Additional Advocate General. We have the assistance of learned *Amicus Curiae*.
3. On 9.11.2017, after hearing the official Respondents through the learned Additional Advocate General and the learned Assistant Solicitor General, an order was issued by this Court to the following effect:

“The Petitioner has instituted this matter as a Public Interest Litigation pointing out that there are various industrial Establishments within the limit of different Panchayats in the district of Raigarh, the activities of which are injurious to the people at large. Materials are placed on record to show that the local inhabitants face multifarious challenges to health.

Under such circumstances, having regard to the materials placed on record, we direct the Member Secretary, Chhattisgarh State Legal Services Authority; for short 'the SLSA' to require the District Legal Services Authority, Raigarh; for short 'the DLSA', to have an inspection conducted through the Secretary of that DLSA with the support of legal aid counsel or para legal volunteers as may be required in the assessment of the Chairperson of that DLSA.

A comprehensive report shall be placed before this Court by the Chairperson, DLSA, Raigarh through the Member Secretary, SLSA. It would be open to the DLSA Chairperson to call for report or materials from all the officials whose assistance would be required to conclude on the matter. Similarly, we hereby order and authorise the DLSA Chairperson to issue notice on the strength of this order to the various industries and calling for their response in the matter. Such inputs from those Establishments will also be considered and reflected appropriately in the report. The DLSA, Raigarh will sent report to this Court through Chhattisgarh SLSA. Let such report be made available before this Court without fail within a period of two months.

Post this matter on 16th January, 2018.

The office will communicate this order to the Chhattisgarh SLSA and DLSA, Raigarh with copy of the writ petition and documents filed therewith. The learned Additional Advocate General and the learned Assistant Solicitor General will instruct the District Collector, Raigarh, the Superintendent of Police, Raigarh as also the Public Health authorities and the other Government officials to extend requisite facilities for inspection and also to place such materials as may be necessary for the Chairperson, DLSA, Raigarh to prepare the report as directed through this order. The Petitioner will also be entitled to place views before the Chairperson, DLSA, Raigarh.”

4. Now, a report has been placed by the Chhattisgarh State Legal Services Authority; for short 'SLSA' forwarding the report of District State Legal Services Authority, Raigarh; for short 'DLSA'. We have considered the contents of that report and the shocking revelation is that inhuman condition prevails in the affected area. The community living in that affected area is eligible for all assistance and protection to health and environment in terms of the Constitution and the laws.

5. While we have considered the report of DLSA, Raigarh, we cannot, but observe that there is no contribution by the health sector officials which would

inspire confidence in the mind of this Court. There appears to be a statement on record as part of that report by the Chief Medical & Health Officer; for short 'CMO', Raigarh that no cases have been reported. The requirement is not to find out whether the statistics in the CMO's office reflect the number of affected persons who have come for medical aid, the requirement was for the health sector officials to visit the different areas, make on the spot assessment and report their views as to what is actually happening in the affected area. We therefore reject that part of the report which deals with the CMO's input since according to us, it is grossly insufficient to be taken cognizance of by judiciary in any process of adjudication.

6. The situation disclosed through the report of the Chairperson, DLSA, Raigarh finds abundant corroboration through the materials placed on record by the Petitioner. The learned *Amicus* has also shown from the materials that the gravity of the situation is such that life, health, living condition and environment of the affected area and the people of that area is brimming on to a disastrous situation. The management of such problem is the collective responsibility of the different limbs of governance; particularly by enforcing to the hilt by the statutory provision and also by extending the socio economic measures and other facilities that would immediately augment the health condition, the environmental condition and other requirements of the people of the said locality. We are also of the view that the uncontrolled activities which are reported by the DLSA, Raigarh, if left unabated would lead to further deterioration of the local condition. This would unnecessarily be a gross failure of the administration.

7. Environmental laws, police laws and other tools of management of every part of India are required to be appropriately utilized by authorities endeavor to do so. The provisions of the Code of Criminal Procedure have withstood the test of time to be an effective tool in the hands of authorities like the District Magistrate who are empowered to act; provided they have the bones and guts to do that. The will to do is not something to be buried in the hatched of the heart, it should

come out through actual performance on ground. This is what the Constitution expects of every government servant in terms of the constitutional obligation to oblige the Indian Nation by discharging Fundamental Duties in terms of Part-IV A of the Constitution. The requirement that the government servant do act in conformity with the Constitution and the commands of laws, the part of rule of law, this gets enshrined as a valuable piece among the Fundamental Rights of the citizens. No public servant and no officer empowered by any statute can desist from taking due action as is commanded through that piece of legislation, nor can that officer act in defiance of such statutory provision. Omissions and commissions would become offensive when they are in conflict with law. It is an offence for a public servant not to discharge duties and responsibilities attached to certain officers. When the quality of duties and responsibilities include the authority and obligation to initiate due action for the protection of life, limbs, health, living conditions of people and for management of the environment as a whole, such dereliction of duty by officers empowered under the statute may themselves result in offences which need to be taken cognizance of.

8. It is not as if Indian history has not seen District Magistrates and the Additional District Magistrates who have done their job fairly well. It all depends upon whether the officers work with full commitment to the people in accordance with the Constitution and the laws. They are not merely servants of the political powers which may sometime try to bubble up in the executive domain of particular area in different parts of this great Nation.

9. Taking on record the report of DLSA subject to what we have stated above regarding the CMO's input, we direct the Secretary, DLSA, Raigarh to place a copy of that report before the District Magistrate, Raigarh who shall consider the contents thereof and initiate such action as is called for by law, as regards the entire area in question; be that action has to be taken against the mighty or a mite. Equality doctrine has to flow even while being visited with consequences of

actions. We direct the District Magistrate, Raigarh to inspect personally the entire location or call for a report from a duly authorized officer as is required by the Code of Criminal Procedure and forthwith take steps against all persons found to be working in conflict with law in the context of the situation explained above. Due process shall follow and the result of such action shall be reported to this Court in the form of an affidavit placing the decisions for perusal of this Court, that shall be made available before the Registrar General of this Court without fail within a period of three months from now.

10. The Chhattisgarh Environment Conservation Board is alerted hereby to ensure that all requisite statutory action proceeded with forthwith in terms of the different laws relating to the environment protection. This will apply to air, water, sound, chemical management and all other issues which are covered by the environmental laws. Mere initiation of prosecution would not be sufficient even if there is material for that. Requisite steps for regulation, prohibition, closure etc. shall be duly taken based upon the facts of each establishment. The Environmental Engineer (Regional Officer) of the Environment Conservation Board having jurisdiction over the area is hereby directed to place a report before this Court supported by an affidavit as a result of such action. Such report be made available before the Registrar General of this Court for perusal without fail within a period of three months from now.

11. The District Medical & Health Officer, Raigarh is hereby directed to send a team of Doctors, Para-Medical staff and other requisite personnels to make an on the spot study of the entire affected area as stated in the writ petition *i.e.* seven villages of Raigarh District, namely, Samaruma, Tumideeh, Chharratangar, Taraimal, Amleedih, Amaghat and Punjipatra and provide a comprehensive report to the Chairperson of the DLSA, Raigarh and also to the District Magistrate, Raigarh who will also carry forward the requisite action that may be required on the basis of such report.

12. We also notice that there is a sustained and strong allegation by the Petitioner that Corporate Social Responsibility; for short 'CSR', obligation have not been appropriately carried forward through the requisite conduct to be utilized locally. This may be due to lack of insistence of CSR funds being provided by the institutional establishments or the lack of the utilization of those funds for due performance. This issue shall also be addressed by the District Collector, Raigarh. Steps taken in this regard shall also be reported to this Court. That shall also be made available before the Registrar General of this Court without fail within a period of three months from now.

13. The writ petition ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(Sharad Kumar Gupta)
JUDGE