

**THE HON'BLE SRI JUSTICE S.V.BHATT**

**W.P. No.42651 of 2017**

**ORDER:**

Heard Mr K.Sitaram for petitioner and the learned Assistant Government Pleader (Revenue).

The petitioner, Sarpanch of Dalemarajuvalasa Village complains air pollution nuisance from the brick kilns run by respondents 7 to 11 and further inaction on the part of the 3<sup>rd</sup> respondent as illegal, arbitrary and contrary to the *Air (Prevention And Control of Pollution) Act, 1981* and Section 134 of Criminal Procedure Code (Cr.P.C).

The Assistant Government Pleader rightly pointed out that the petitioner can complain inaction in the procedure prescribed under Section 133 Cr.P.C. In the case on hand, the complaint is made before the District Collector/2<sup>nd</sup> respondent. He further submits that if complaint is brought under Section 133 of Cr.P.C for abetment of nuisance, the 3<sup>rd</sup> respondent will examine and take the assistance of Pollution Control Board if necessary and pass appropriate orders.

The statement is placed on record.

The issue since relates to air pollution, to meet ends of justice, the Court considers it appropriate to dispose of the writ petition by this order.

- (a) The petitioner is given liberty to make application under Section 133 Cr.P.C for abetment of nuisance before the 3<sup>rd</sup> respondent by enclosing a copy of this order within four weeks from today.
- (b) The 3<sup>rd</sup> respondent on receipt of application enquires into the matter, if necessary calls for the assistance of Pollution Control Board and take steps as are necessary either for abetment or removal of nuisance within three months from the date of filing of the application.
- (c) The 3<sup>rd</sup> respondent affords opportunity to kiln owners before passing orders. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

**S. V. BHATT, J**

Dt: 21.06.2018

**Note:**

**CC in one week**

**(B/o) dv**

