

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13787 of 2016**

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Nawal Sao S/o Late Banshi Sao resident of R. Lal College Road, Infront of House of Ghamandi Mistri, Ward No.- 24 Naya Bazar, Dalpatti, Police Station and District- Lakhisarai

... .. Petitioner/s

Versus

1. The State Of Bihar through the Director, Environment and Pollution Control, Board, Shastri Nagar, Patna
2. The State of Bihar through Principal Secretary, Forest and Environment, Department, Patna, Bihar
3. The District Magistrate, Lakhisarai, Bihar
4. THE Sub- Divisional Officer, Sadar, Lakhisarai
5. The Circle Officer, Sadar, Lakhisarai
6. Jai Prakash Sao S/o Late Ram Das Sao resident of R. Lal Colleage, Road, infront of House of Ghamandi Mistri, Ward No. 24, Naya Bazar, Dalpatti, P.S. and District- Lakhisarai

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Ad.  
For the Respondent/s : Ms. Shalini Raut, AC to SC-17

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL JUDGMENT**

**Date : 02-05-2019**

None has appeared on behalf of petitioner. Learned counsel for Pollution Control Board is present.

The instant writ petition has been filed for direction to the respondents to stop the operation of the rice mill of Respondent No. 6 immediately and direction for shifting of the rice mill from the residential area to the industrial area of the district or any other place outside the town as well as direction to



enquire about the violation of pollution norms and damages caused due to rice mill running in the residential area.

Learned counsel for the Pollution Control Board has submitted that rice mill of respondent no. 6 has already been closed vide Memo No. T-8156 dated 26.10.2016 (Annexure-R-1/C to the counter affidavit).

Counter Affidavit has been filed on behalf of Pollution Control Board, wherein it is mentioned that in compliance of implementation of the provisions under Sections 17 and 25/26 of the Water Act, 1974 and Section 17 and 21 of Air Act, 1981, a guideline for rice mill was framed and notified by Board's notification no. 26 dated 08.11.2003 which was subsequently amended vide notification no. 07 Memo No. 611 dated 27.06.2011. As per amended provision battery limit of the rice/pulse mill, less than 5 ton per day, if confirming to the standard of noise under the Air Act, is exempted from habitation, river/wetland and railway line, national or State Highway. Rice/pulse mills having aforesaid production capacity per day of parboiled rice are required to maintain a distance of 200 meters from the habitation, river/wetland respectively. It should be at a distance of 50 meters from railway line, national/State highway. Similarly, rice/pulse mill having production capacity of pre-boiled rice of 5 tons per



day and above, without gasifier are required to maintain battery limit of 100 meters from the habitation, 50 meters from river/wetland and 50 meters from railway line, national/State highway. The said notification has further clarified that the habitation for the purpose shall mean residential areas with 200 permanent dwellers or more. Copy of aforesaid notification dated 27.06.2011 is annexed as Annexure-R-1/A.

It is mentioned in the Counter Affidavit that respondent No. 6 without obtaining consent to establish and consent to operate from the State Pollution Board established and operated the rice mill in the name and style of M/s Raja Mini Rice Mill, Jainagar, R.Lal College Road, Ward No. 24, Lakhisarai within densely populated habitation/residential area having production capacity of 5 tons pre-boiled rice per day.

Respondent no. 6 submitted online application on 26.04.2016 seeking consent to establish rice mill.

It is further mentioned in the Counter Affidavit that unit of Respondent No. 6 was inspected by the Junior Environmental Engineer, who found the rice mill established and under operation, which produces approximately 6 m.t. pre-boiled rice per day. The Junior Engineer vide his checklist dated 02.09.2016 recommended for rejection of application of respondent no. 6 seeking NOC.



The Regional Officer, Barauni endorsed the recommendation of JEE on the check-list and remarked that the unit is already situated adjacent to habitation. As recommended CTE application may be rejected. Thereafter the AEE also recommended for rejection of CTE application of respondent no. 6. On 06.10.2016 the Member Secretary of the State Board taking into consideration the inspection report submitted by the Regional Officer to the extent that the site does not confirm the sitting criteria, recommended that the CTE application of respondent no. 6 may be rejected. Thereafter the Chairman of the State Board rejected the CTE application of respondent no. 6 on 07.10.2016.

The Member Secretary of the State Board vide letter bearing Memo No. T-8156 dated 26.10.2016 informed respondent no. 6 that his CTE application dated 26.04.2016 has been rejected since on the date of inspection the rice mill was found established and under operation without obtaining CTE and CTO from the State Board. The Unit is situated within the habitation/residential area whereas the minimum distance should be 100 meters. The complaint against the rice mill has also been received causing air pollution. Respondent no. 6 was directed to stop operation of his rice mill with immediate effect, failing which appropriate legal action was proposed to be taken against him. Copy of aforesaid



letter bearing Memo No. T-8156 dated 26.10.2016 is annexed as Annexure-R-1/C to the Counter Affidavit.

In this manner, from perusal of Annexure-R-1/C to the Counter Affidavit it appears that CTE application of respondent no. 6 has been rejected since the rice mill was found established and under operation within the habitation/residential area whereas its minimum distance should be 100 meters.

In such circumstances, this Court finds that grievance of the petitioner has already been redressed.

Therefore, this Court is not inclined to pass any further order in this writ petition.

The instant writ petition is accordingly disposed off.

**(Sanjay Priya, J)**

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