

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4647 of 2016

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Satyendra Prasad @ Satyendra Prasad Gupta, son of Late Babu Chand Prasad,
resident of Bairagi Khatangi Kothi, Janta Colony, P.O. and P.S.- Delha,
District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Bihar State Pollution Control Board through the member Secretary
Beltron Bhawan Shastri Nagar, Patna.
3. The Member-Secretary, Bihar State Pollution Control Board, Beltron
Bhawan, Shashtri Nagar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Kumar Singh, Advocate.
For the State	:	Mr. Pramod Kumar Singh, Advocate A.C. to S.C. 16.
For the Bihar State	:	Mr. Shivendra Kishore, Sr. Advocate.
Pollution Control Board	:	Mr. Parijat Saurav, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 05-04-2019

1. This writ petition has been filed for quashing the letter No.54/14 T-1661 dated 27.01.2016 issued by Bihar State Pollution Control Board as contained in (Annexure-4) whereby and whereunder the petitioner has been directed to close his small scale industry/unit of manufacturing Aluminium and Brass utensils which is established in Industrial Area notified in master plan by the then Regional Develeopment Authority, Gaya.

2. Heard Mr. Nagendra Kr. Singh, counsel for the petitioner, Mr. Shivendra Kishore, counsel for the Bihar State



Pollution Control Board and Mr. Pramod Kumar Singh, A.C. to SC-16, counsel appearing on behalf of the State.

3. Counsel for the petitioner submits that there are several other small scale industries established in industrial area and they have been allowed to run till date. The petitioner is discriminated and has been ordered to close down his unit. Counsel for the petitioner further submits that earlier the area has been notified as Industrial Area in master plan by the then Regional Development Authority, Gaya. The petitioner is running the unit. He is having a valid licence No. 971/BR/GYA dated 3.1.2014 granted by the Inspector of Factory, Government of Bihar, Factory Inspection Department (Department of Labour and Employment), Gaya. He is running the Unit in the name and Style as "Laxmi Metal Works Aluminium and Brass Utensils Manufacturing Unit". Xerox copy of aforesaid licence has been enclosed as Annexure-1. Counsel for the petitioner further submits that Unit/Industry of the petitioner is being run on electricity and in case of power disruption, the unit occasionally runs on 5HP Generator set which is soundless. The other Industry/Units are being allowed to run in similar condition till date. The area where the unit is running has been notified in master plan by the then Regional Development Authority, Gaya,



as Industrial Area. The unit of the petitioner is also running along with the other units.

4. Counter affidavit has been filed on behalf of the Bihar State Pollution Control Board, hereinafter referred to as the 'State Board' wherein it has been stated that aforesaid Industry/unit of the petitioner was established and is under operation without obtaining any consent and taking (NOC) and consent to operate from the State Board as required under provisions contained in Section 21 of the Air (Prevention and Control of Pollution) Act, 1981. It has further been submitted in the counter affidavit that on 13.03.2014, petitioner has submitted application in the office of State Board seeking consent to establish his unit. On 8.2.2015 the Officer of the State Board conducted inspection of the proposed site and found that the unit of the petitioner is situated at a distance of 5 meter from the habitation and within a distance of 200 meter from the State Highway whereas the distance from habitation and highway requires to be 200 meters respectively in terms of siting criteria of the State Board. The State Board vide letter No. T-3174 dated 3.3.2015 issued show cause notice to the petitioner as to why his application seeking NOC be not refused since the unit is not confirming the siting criteria of the State Board. In response to the



show cause notice dated 3.3.2015, the petitioner appeared before the Chairman of the State Board and informed that earlier, the site of the unit was situated under industrial area in the light of earlier master plan of Gaya. It is further stated that since the unit of the petitioner is established and is being operated without obtaining consent from the State Board and the unit is situated within the residential area, the application of the petitioner dated 13.3.2014 seeking NOC was refused and the petitioner was directed to ensure closure of the unit vide letter No. T-1661 dated 27.1.2016 as contained in Annexure-4. A copy of the letter was also forwarded to the District Magistrate, Gaya, for ensuring closure of the unit of the petitioner.

5. Counsel for the State submits that there is statutory remedy available to the petitioner in terms of Section 31 of Air (Prevention & Control of Pollution) Act, 1981.

6. In such circumstances, this Court without giving any opinion with regard to the merit of the order as contained in Annexure-4 to the writ petition, directs the petitioner, to avail statutory remedy as provided under Section 31 of Air (Prevention & Control of Pollution) Act, 1981, within a period of one month from the date of passing of this order. The Appellate Authority will after hearing the petitioner and looking into relevant



documents, pass appropriate order in accordance with law within a period of three months from the date of filing of the appeal by the petitioner. The delay in filing the appeal, if any, will be condoned by the Appellate Authority since the petitioner was pursuing the remedy before this Hon’ble Court.

7. This writ petition is accordingly disposed off with aforesaid observation.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10/04/2019
Transmission Date	

