

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10221 of 2016

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Ram Briksha Bhagat S/o Late Hriday Narayan Bhagat At and P.O.
Sangrampur, P.S. Sangrampur, District - Munger

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Munger
3. The Sub - Divisional Office, Tarapur Munger
4. The Circle Officer, Sangrampur Block Munger
5. Sunil Kumar Bhagat S/o Late Ganga Prasad Bhagat At and P.O.
Sangrampur, P.S. Sangrampur, District - Munger
6. Aashish Mandal S/o Nandeshwari Mandal Village- Khapra, P.S.
Sangrampur, District - Munger

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar
For the Respondent/s : Mr.Rajiv Roy- Gp1

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
CAV JUDGMENT

Date : 01-08-2019

The instant writ petition has been filed for issuance of a writ in the nature of Mandamus for commanding the respondents to implement the order passed by respondent Nos. 3 and 4 as contained in Annexure(s) 2 and 3 to this writ application whereby he had directed the respondent Nos. 5 and 6 to wind up the Grill Shutter Industry in a residential area due to pollution and health hazard.

The case of petitioner is that he has sent a letter to the Sub-Divisional Officer, Munger (Tarapur) stating therein that person who is running the Grill Shutter Industry is creating



nuisance and making pollution. The petitioner who is aged about 75 years is suffering from several diseases. The Sub Divisional Officer Tarapur (Munger), has directed the Circle Officer Sangrampur (Tarapur) to make enquiry. The enquiry was done and, vide order, as contained in Annexure-3, direction was issued to the proprietor of Grill Shutter Industry, namely, Mr. Sunil Kumar Bhagat and Mr. Ashish Mandal to shift the same to some other place. The order was not complied with. The petitioner filed representation before the authority concerned as well as District Magistrate, Munger for non-compliance of the order passed by SDO, Tarapur as well as C.O. Sangrampur Vide Annexure(s) 4, 5 and 6 respectively.

Learned counsel for petitioner has submitted that prior to this Grill Shutter Industry there was a Saw Mill which has been vacated on the ground of pollution in the residential area. Photo copy of the order dated 25.6.2009 has been annexed as Annexure-7 to writ petition.

A counter affidavit has been filed on behalf of respondents nos. 2 to 4, wherein, it has been stated that office of the S.D.O. had earlier directed the Circle Officer, Sangrampur to enquire into the matter and take needful measure to get the Grill Shutter Industry closed to avoid pollution in the vicinity.



The Circle Officer, Sangrampur, has informed vide his office letter no. 557 dated 24.8.2016 that the land in-question has been measured, all the items relating to the said Grill Shutter industry stands removed with the help of the police force and an information to this effect has also been given by the respondent no.5 herein. Photocopy of the letter no. 557 dated 24.8.2016 has been annexed as Annexure- R-3/A to the writ petition.

It has further been submitted on behalf of petitioner that aforesaid grill factory is still continuing on the aforesaid land even after statement made by respondent nos. 2 to 4 in paragraph nos. 6 and 7 of the counter affidavit.

The explanation was called for by this Court from Sub Divisional Officer, Tarapur (respondent no.3). He has submitted explanation to the effect that in his earlier counter affidavit dated 17.10.2016, it has been mentioned that the land has been measured and with the help of Police force the materials which is causing pollution has been removed. But, inadvertently in paragraph no.6 of the counter affidavit, it has been mentioned that land in-question has been measured, all the items relating to the said Grill Shutter industry stands removed with the help of the police force. The reference has been made to para-6 of Annexure R3A of the counter affidavit. Annexure R-3A



mention that item causing pollution has been removed with the help of the police force.

The S.D.O. was directed by this court to enquire whether the aforesaid grill industry is running on the basis of valid license. The report was submitted by S.D.O. stating therein that Grill Shutter industry is not causing any pollution hazard and is running as per conditions mentioned in letter No. ROB (Camp) Munger/14/18/275 dated 6.2.2019 as contained in Annexure-A to the supplementary counter affidavit. There is no restriction in running grill shutter industry in the market place or in a densely populated area on electric line. The continuance of such grill shutter industry is not causing nuisance to the police living nearby.

Thereafter, the District Magistrate, Munger, was directed to hold proper enquiry and submit report after doing spot verification of the area as to whether the statement made in the supplementary counter affidavit filed by the SDO before this Court, which is contrary to the earlier affidavit filed by him vide Annexure-3, is correct. In compliance of the said direction, the District Magistrate, Munger conducted an enquiry and submitted a report which is annexed as Annexure R-2G dated 1.7.2019, wherein, it has been mentioned that shop of



respondent nos. 5 and 6 are running with valid licence. There is no pollution sound. The respondent nos. 5 and 6 have got NOC from the Bihar State Pollution Control Board, Begusarai.

It is also mentioned in the report that there is litigation between the petitioner and respondent nos. 5 and 6. The cases relating to family disputes are also pending in the court between the parties. The petitioner has no good relationship with his wife. The respondent no.5 is brother of wife of petitioner. It is also mentioned in the report that in the event the aforesaid Grill shutter industry causes pollution and health hazard, the petitioner can file necessary petition before the Bihar State Pollution Control Board, Begusarai, for necessary action. It is also mentioned in the report that General Manager, District Industries Centre, Munger was also present with the District Magistrate at the time of enquiry. He also inspected the iron grill shutter unit of respondent nos. 5 and 6 and did not find any irregularities in the same.

In such circumstances, on the basis of enquiry report of the District Magistrate, as mentioned above, respondent nos. 5 and 6 is running the Grill Shutter industry after obtaining prior NOC from Bihar State Pollution Control Board, Begusarai. The District Magistrate after making spot enquiry did not find the



shop of the respondent nos. 5 and 6 making any sound pollution.

As such, this Court finds that respondent no.5 and 6 have valid licence for running the grill shutter industry. They also got NOC issued from the Bihar State Pollution Control Board, Begusarai.

In such circumstances, this Court does not find any merit in this writ application. Therefore, the writ application is dismissed.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	
CAV DATE	2.7.2019
Uploading Date	3.8.2019
Transmission Date	

