

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7775 of 2003

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KALYANPUR CEMENT LTD. through Shri S.N. Verms, s/o late Bhagwat Prasad, Dy. General Manager (Legal Affairs) and authorized Attorney of the Company having its office at Maurya Centre, Fraser Road, P.S.-Gandhi Maidan, District- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR and ORS

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 13989 of 2003

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M/S SONE VALLEY CEMENTS LTD., a Company incorporated under the Indian Companies Act, 1913 having its Registered Office at 2nd Floor, Sahi Bhawan, Exhibition Road, Patna-800001, through its Director & Chief Executive Officer, Sri A.C. Srivastava.

... .. Petitioner/s

Versus

THE STATE OF BIHAR and ORS

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 7775 of 2003)

For the Petitioner/s : Mr. Niraj Kumar

For the Respondent/s : Mr. Sunil Kumar, A.C. to G.A.-12

(In Civil Writ Jurisdiction Case No. 13989 of 2003)

For the Petitioner/s : Mr. Niraj Kumar

For the Respondent/s : Mr. Sunil Kumar, A.C. to G.A.-12

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 21-02-2019

The instant writ petitions have been filed to quash the order dated 29.03.2003 (Annexure-2) passed by the Secretary, Environment and Forest Department, Govt. of Bihar, whereby the preliminary objection raised by the petitioners' company regarding maintainability of the proceedings under Wild Life (Protection Act), 1972 has been dismissed.



It is mentioned in the writ petition that petitioners are public limited company registered under the Companies Act, which are engaged in business of cement manufacturing since long. The State Govt. vide its notification no. 1160 dated 20.07.1979 declared certain areas in the district of Rohtas as Kaimur Wild Life Sanctuary under Section 18(i) of the Wild Life Protection Act, 1972.

The petitioners' company being aggrieved by the inclusion of certain areas in that notification filed its objection/claim before the Collector, Rohtas under Section 21 of the Act for exclusion of those areas from the boundary of the sanctuary. In the objections, the petitioners' company highlighted the fact that the areas objected by the companies would hamper the prospect of the companies and by its exclusion from the sanctuary, no adverse impact would be there on the ecology and would not be a case of excess in industrialization in the area.

The Collector, Rohtas under Section 24 of the Act in his final order upheld the contention of the petitioners' company and excluded the area to the extent of 127.24 hectares from the limits of the proposed sanctuary. The order dated 06.06.1998 passed by the Collector, Rohtas is annexed as Annexure-1 to the writ petition.



The Divisional Forest Officer, Shahabad, Forest Division, Sasaram filed a petition before the Secretary Environment and Forest Department against the order passed by the learned Collector, whereby the petitioners' company objections were allowed.

The petitioners' company duly appeared before the Secretary and filed preliminary objection on the ground that the petition filed before the Secretary is not maintainable as per provisions of Wild Life Protection Act, 1972. It was contended that under the Act only Collector has power to determine claim or right of any kind over the land comprised within the limits of sanctuary and is finally decided under Section 24 of the Act by accepting or rejecting the objections filed by a party, to a notification issued under Section 18 of the Act, by the State declaring its intention to declare a particular area to be a sanctuary.

Counter Affidavit has been filed on behalf of Respondents, which is on record.

The respondents have mentioned in the Counter Affidavit that even though separate provisions of revision, appeal etc have not been specified in the Act in terms of Section 26A(1) (a) of the Act, the State Government shall have power to hear the parties who are aggrieved by the order of Collector. It has been



submitted in the counter affidavit that the objections raised by the petitioners before the Secretary, Environment and Forest Department, Bihar regarding maintainability of application has rightly been disallowed.

Section 26A (1) (a) of the Act specifies that a claimant aggrieved by the order of the Collector can petition the State Government for finally determining his claim. At the same time if the State Government is satisfied that the order of the Collector with respect to a claim is bad in law and/or on facts, it can call for the record and finally dispose off the claim after issuing notice and considering the submissions of the claimants. The final decision on exclusion of land or acquisition of land or rights etc. as a sequel to such disposal of claims will also necessarily have to be of the State Government.

This Court after hearing submission of parties and on perusing the impugned order finds that order dated 29.03.2003 passed by the Secretary, Environment and Forest Department, Govt. of Bihar in Misc. Case No. 1/2001, is speaking and well discussed order.

This Court does not find any illegality in the aforesaid order.

Both the writ applications are accordingly dismissed.



The petitioners are directed to appear before the Secretary, Environment and Forest Department, Bihar in the pending proceeding and raise their contentions, which shall be disposed off on merit in accordance with law.

I.A. No. 01 of 2019

The Interlocutory Application has been filed in C.W.J.C. No. 7775 of 2003 to amend the name of petitioner company from “M/s Kalyanpur Cements Ltd.” to “Dalmia DSP Ltd.”

Since the writ application has been dismissed, this Court does not find any necessity to pass order in instant Interlocutory Petition.

Accordingly, the Interlocutory Application no. 01 of 2019, filed in C.W.J.C. No. 7775 of 2003, is rejected.

The petitioner is given liberty to file such petition before Secretary, Environment and Forest Department, Bihar in Misc. Case No. 1/2001.

(Sanjay Priya, J)

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CAV DATE	N.A.
Uploading Date	06.03.2019
Transmission Date	

