

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13870 of 2017

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Neha Nishchal Wife of Manoj Kumar, Resident of Flat No. 2M/25,
Bahadurpur Housing Colony, Police Station Agam Kuan, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chairman, Bihar State Pollution Control Board, Patna.
3. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
4. The Commissioner, Patna Division, Patna.
5. The District Magistrate, Patna.
6. The Chief Executive Officer, Patna Municipal Corporation, Budha Marg, Patna.
7. The Senior Superintendent of Police, Patna.
8. The Superintendent of Police, Patna East, Patna.
9. The Managing Director, Bihar State Housing Board, Patna.
10. The Member Secretary, The Bihar State Pollution Control Board, Parivesh Bhawan, N.S. B. 2, Patliput
11. The Regional Officer, the Bihar State Pollution Control Board, Parivesh Bhawan, N.S. B. 2, Patliput
12. The Sub-Divisional Officer, Patna City.
13. The Executive Officer, Kankarbagh near Kankarbagh Tempo Stand, Patna Municipal Corporation, Patna.
14. The Executive Engineer, Bihar State Housing Board, Division-II, Bhootnaht Road, Kankarbagh, Patna-
15. The Officer- in- Charge, Agam Kuan Police Station, Patna.
16. Lalan Kumar Sharma, Son of not known, Proprietor of Sarvashree Jay Mata Di Engineering Works, Mahatma Gandhi Nagar, Kanti Factory Road, Bahadurpur Housing Colony, East of Shiv Mandir, P.S. Agam Kuan, District Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prafull Chandra Jha
For the Respondent no. 16	:	Mr. Nagendra Kumar
For the State	:	Ms. Ratna Kumar, AC to PAAG-2
For the Patna Municipal Corp.	:	Mr. Prabhakar Singh
For Bihar State Housing Board	:	Mrs. Anshuman Singh
For the Bihar State Pollution Control Board:		Mr. Shivendra Kishore, Sr. Adv.
		Mr. Parijat Saurav.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 22-01-2019



Heard the learned counsel for the petitioner, respondent no. 16, State Pollution Control Board, Patna Municipal Corporation as well as the State.

The petitioner has prayed for direction to respondent authorities to remove iron/grill welding cutting work factory from the residential mohalla i.e. Bahadurpur Housing Colony, which is running on non-allotted plot of Bihar State Housing Board, Patna by respondent no. 16 violating/ignoring all the norms as a result health of people of entire area including the family of petitioner are damaging due to unwanted sound/pollution/electric current etc.

The matter was heard and detail order was passed by this Court on 02.01.2019. On that date counsel for Respondent No. 16, who is main aggrieved party, had submitted before the Court that he has filed necessary return with regard to aforesaid factory before the competent authority vide Annexure-E to the Counter Affidavit. He had also made prayer with Court to give opportunity to produce necessary papers with regard to grant of permission to Respondent No. 16 from competent authority for running the factory on the land in question. He was given time by the Court to file supplementary counter affidavit in this regard, which has been filed by Respondent No. 16.



Respondent No. 16 has pointed out Annexure-I to the supplementary Counter Affidavit, whereby it appears that licence was granted to Jai Mata Dee Engineering Works under Rules 6 to 10 of the Bihar Factories Rules, 1950 and Section 6(I)(d) of the Factories Act, 1948.

Learned counsel for the petitioner has submitted that since the aforesaid factory was found to be running on the encroached land of Housing Board, same has already been removed by the competent authority. In this respect learned counsel for petitioner has pointed out para 11 of counter affidavit filed on behalf of respondent no. 8, Senior Superintendent of Police, Patna and also paragraphs 6, 7 and 8 of the Counter Affidavit filed on behalf of Sub-divisional Officer, Patna City (Respondent No. 12) from which it appears that aforesaid grill factory has already been removed from the aforesaid land.

Counsel for Housing Board (Respondent No. 9) has pointed out para 4 of the Counter Affidavit stating therein that Bihar State Housing Board vide its letter no. 840 dated 27.05.2016 had already informed Respondent No. 12 about the encroachment and to take necessary actions for its removal from the Housing Board Land. Photocopy of aforesaid letter has been annexed with the Counter Affidavit of Housing Board as Annexure-A/R-9.



Learned counsel for the petitioner has also pointed out Annexure-6 of the writ petition, which is letter dated 26.09.2016 addressed to the Officer-Incharge, Agamkuan P.S., Patna by the Executive Engineer of the Housing Board stating that the aforesaid land has been encroached by Respondent No. 16, which is land of Housing Board and fabrication work is being done on the aforesaid land.

Request has been made to take appropriate steps to close the aforesaid grill factory.

In such circumstances, it appears that the main relief which has been sought by the petitioner vide para 1 of the writ petition to close/stop/remove iron/grill welding cutting work factory from the residential Mohalla/area i.e. Bahadurpur Housing Colony by Respondent No. 16, has already been granted by the authorities by removing aforesaid factory.

Therefore, this Court finds that now the instant writ petition has become infructuous and no further relief is required to be granted to the petitioner.

This writ petition is accordingly disposed off as has become infructuous.



Respondent No. 16 will be at liberty to seek necessary legal remedy before appropriate authority for redressal of his grievances.

The petitioner will be at liberty to approach this Court in the event aforesaid encroachment is again made on the aforesaid land after passing of this order.

(Sanjay Priya, J)

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AFR/NAFR	
CAV DATE	N.A.
Uploading Date	30.01.2019
Transmission Date	

