

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.480 of 2018

=====

Durga Paswan, Son of Late Subran Paswan, Resident of Village Betounha,
P.S. Jainagar, District Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Environment & Forest, Government of Bihar, Patna.
2. The Principal Secretary, Department of Environment & Forest, Government of Bihar, Patna.
3. The Chairman, Bihar State Pollution Control Board, Parivesh Bhawan, Pataliputra Udyog Road, Patna.
4. The Regional Officer, Muzzafarpur, Bihar State Pollution Control Board, Regional Office, Muzzafarpur.
5. The District Magistrate, Madhubani.
6. The Superintendent of Police, Madhubani.
7. The Assistant Mining Officer, Madhubani.
8. The Sub Divisional Officer, Jainagar, Madhubani.
9. The Circle Officer, Jainagar, Madhubani.
10. M/s New Gopal Int Udyog through its proprietor Sri Dilip Kumar Mahto, situated at Belhi, Betounha, P.O. Bela, Madhubani, District Madhubani.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Siddhartha Prasad, Advocate Mr. Kaustubh, Advocate Mr. Om Prakash, Advocate Mr. Sumit Kumar, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, A.A.G. 13 Mrs. Sunita Kumari, A.C. to A.A.G. 13
For Pollution Board	:	Mr. Abhimanyu Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 13-02-2019

Heard learned counsel for the petitioner as well as
learned counsel representing the Bihar State Pollution Control
Board.

This application has been filed seeking review of the



order dated 12.07.2018 passed by the Hon'ble Division Bench of this Court in C.W.J.C. No. 12019 of 2018 which was filed by the present petitioner by way of a public interest litigation.

Learned counsel for the petitioner has taken a number of grounds in the review application. However, it transpired at the Bar on being specifically pointed out by the learned counsel for the Respondent-Board that Ground No. (iii) taken in the review application states incorrect facts. According to the petitioner, the Member Secretary, Bihar State Pollution Control Board, had issued letter No. T-5592 dated 02.11.2017 to the District Magistrates of all concerned Districts to close all the illegally operated brick-kilns with immediate effect and in the said list the name of Respondent No. 10 appears at serial number 67, whereas the correct fact is that the Bihar State Pollution Control Board had issued the said letter disclosing the names of those entities who had been granted the license known as "Permission to Establish and Operate". It is, thus, an admitted position now that Private Respondent No. 10 has been granted permission to establish and operate by the statutory authority.

The public interest litigation was dismissed by the Hon'ble Division Bench taking note of the fact that the jurisdiction to deal with the matters with regard to environment



related issues is vested with the National Green Tribunal and the issue in question was already dealt with by the National Green Tribunal, Eastern Zone Bench at Kolkata in O.A. No. 164/2016/EZ. Learned counsel for the petitioner admits that the National Green Tribunal had, in fact, directed the Bihar State Pollution Control Board to consider the grievance of Respondent No. 10 and take an appropriate decision. Pursuant thereto, the request of Respondent No. 10 to grant Consent/no objection "Emission Consent Order" was considered and after inspection of the unit in question he was granted the 'no objection' on 15.10.2017. Now, in fact, by filing the public interest litigation, the petitioner wants to assail the said Consent order Respondent No. 10 to establish and operate the Industry. An appeal against the no objection order dated 15.10.2017 has already been filed before the Board of Revenue.

It is well settled that a public interest litigation is not an adversarial litigation. It is also apparent that there is a remedy of appeal against the order passed by the authorities of the Bihar State Pollution Control Board which is already availed. There is no reason as to why the petitioner, instead of pursuing his remedy, if it is available to him in appeal, will come to this Court by way of a public interest litigation.



We are not inclined to entertain the review application
as there is no error apparent on the face of the record.
The review application is dismissed.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.02.2019
Transmission Date	N/A

