

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22885 of 2018

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Jitendra Kumar Singh @ Jitendra Singh S/o Raja Ram Singh R/o Village-
Fatehpur, P.S.- Didarganj, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Environment and Forest, Govt. of Bihar
2. The Chairman, Pollution Control Board, Bihar, Patna
3. The Member Secretary, Pollution Control Board, Govt. of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amresh Kumar Sinha, Advocate
For the State	:	Mr. Dhurjati Kumar Prasad -GP14
For the Pollution Control Board	:	Mr. Abhimanyu Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 08-03-2019

Heard the parties.

The petitioner has filed the writ petition seeking following reliefs:

“(i) To issue a writ of Cetrriorari to set aside the order as contained in letter no. 3827/18 dt. 31/10/18 issued under signature of the Member Secretary Bihar State Pollution Control Board.

(ii) To issue a writ(s) mandamus directing the respondent No.3 Member Secretary Bihar State Pollution Control Board to issue NOC to the petitioner.”

Learned counsel for petitioner has submitted that he has earlier applied for ‘No Objection Certificate’ for running his brick kiln which was rejected on the ground that petitioner was not holding Environmental Clearance Certificate by order dated 15.9.2016 as



contained in Annexure-4. The petitioner has challenged the aforesaid order before this Hon'ble Court by preferring C.W.J.C. No. 15924 of 2018. The aforesaid writ petition was disposed of by this Hon'ble Court by order dated 28.8.2018 with direction to make application online on the prescribed Performa /format within a period of two weeks from date of order. The writ petition was disposed of on the basis of the submission of counsel for the respondent Board that petitioner is required to make an application online on the prescribed Performa/format, then his claim can be considered in accordance with law.

Thereafter, the petitioner has filed fresh online application on the prescribed Performa/format in compliance of order passed by this Hon'ble High Court which has been annexed as Annexure-6 to the writ petition. The Pollution Board has passed the order dated 31.10.2018 rejecting the claim of the petitioner to run brick kiln on the ground that policy decision has been taken by the Government in the Board of Meeting held on 19.9.2016 that no new brick kilns based on old technology can be allowed to establish and operate in five blocks of the Patna District, namely, Maner, Danapur, Patna Sadar, Fatuha, and Phulwarisharif. The copy of the aforesaid proceedings of Board of Meeting dated 19.9.2016 and decision taken thereunder has been annexed as Annexure R-3/2.

In the counter affidavit filed on behalf of respondent Nos. 2 and 3, it has been mentioned that it was decided in the Board meeting



held on 19.9.2016 as contained in Annexure- R 3/2 that in five block of Patna District, namely, Maner, Danapur, Patna Sadar, Fatuha, and Phulwarisharif, Consent-to Establish (CTE) and Consent-to-Operate (CTO) will not be granted to new brick kilns. Since the petitioner's brick kiln was new, therefore, in light of aforesaid policy decision, his prayer has been rejected by order as contained in Annexure-7.

This Court, after perusal of Annexure-4, finds that earlier application filed by the petitioner for grant of 'No Objection Certificate' for establishment of his brick kiln was rejected by the Board by order dated 15.09.2016. The petitioner has challenged the aforesaid order before this Hon'ble Court by filing C.W.J.C. No. 15924 of 2018 which was disposed of with direction to the petitioner to make application online on the prescribed Performa/format within a period of two weeks from date of order. The Hon'ble Court has mentioned in the aforesaid order that it has not expressed any merit on the claim of the petitioner. The writ petition was disposed of. Therefore, the order as contained in Annexure-4 remained against the petitioner by which his earlier petition filed for grant of 'No Objection Certificate' had been rejected. Thereafter, in compliance of order passed by this Hon'ble Court in C.W.J.C. No. 15924 of 2018 petitioner has filed fresh application online on the prescribed Performa/format for grant of 'No Objection Certificate' which was rejected by order as contained in Annexure-7 on the ground that policy decision has been taken by the Government in the Board of



Meeting held on 19.9.2016 that no new brick kilns based on old technology can be allowed to establish and operate in five blocks of the Patna District, namely, Maner, Danapur, Patna Sadar, Fatuha, and Phulwarisharif.

As such, the application of petitioner was rejected on the ground of policy decision of the State.

Therefore, this Court is not inclined to interfere with the impugned order in its writ jurisdiction.

The writ application is, accordingly, dismissed.

(Sanjay Priya, J)

shyambihari/-

AFR/AFR	AFR
CAV DATE	
Uploading Date	14.3.2019
Transmission Date	

