

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5590 of 2018

M/s H A A Bricks, a Proprietary concern through its Proprietor Bablu Kumar Shah @ Bablu Kumar Saha, Son of Dasrath Prasad Shah, Ward No. 32, Machhamara Kalu Chouk, Kishanganj, Police Station-Kishanganj, District-Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Kishanganj.
3. The Mines Inspector-Cum-Competent Officer, Kishanganj.
4. The District Environmental Impact Assessment Authority through its Chairman.
5. The Sub-Divisional Officer-Cum-Member Secretary, District Environmental Impact Assessment Authority (DEIAA), Kishanganj.
6. District Level Expert Appraisal Committee (DEAC) through its Chairman, Executive Engineer, Flood Control Division, Kishanganj.
7. Bihar State Pollution Control Board, Patna through its Chairman.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Sanjeev Ranjan, Advocate
For the State	:	Mr.Gyan Prakash Ojha -GA-7 Mr.Abhishek Singh, AC to GA-7
For Mines	:	Mr. Naresh Dikshit, Spl.P.P. Mr.Brij bihari Tiwari, Advocate
For Pollution Board	:	Mr.Parijat Saurav, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 22-04-2019 Learned counsel for the petitioner has raised a limited ground seeking indulgence in the matter. It is submitted that so far as Annexure 'B' to the counter affidavit filed on behalf of respondent nos. 2 to 6 is concerned, the same has now been challenged by the petitioner in I.A. No. 7100 of 2018.

Learned counsel submits that the only ground for



rejection of the request of the petitioner for grant of those site clearance/environmental clearance is that the brick kiln of the petitioner is not situated within the distance required in terms of Paragraph 4(iii) of the Notification No. 03 dated 21.01.2004 issued by the Bihar State Pollution Control Board.

Learned counsel submits that the impugned orders have been passed without looking into the materials available on the record inasmuch as it would be evident from the site verification report conducted by DEAC, Kishanganj, a copy of which is available as Annexure '12' to the writ application, that the distance of brick kiln of the petitioner has been shown at the distance of more 60 meters. It is submitted that the DEIAA in its meeting held on 13.08.2018 could not appreciate that the reasons for rejection of the request of the petitioner is totally unfounded.

Learned counsel for the Department of Mines submits that since the petitioner is pointing out discrepancies in the impugned order *viz-a-viz* the remarks of the Committee, conducted the site verification and submitted a report as contained in Annexure '12', it would only be just and proper to place his grievance before the said Committee, bring all these discrepancies to the notice of the committee for a fresh



consideration.

Having regard to the facts and circumstances and considering the nature of the grievance of the petitioner and the materials available on the record, this Court thinks it just and proper to give liberty to the petitioner to bring all those discrepancies to the notice of the concerned Committee within a period of 30 days from today. If such a request is made by the petitioner together with all supporting materials before the Committee, the Committee shall look into the grievance of the petitioner, examine the materials place by the petitioner before the Committee and take an appropriate decision thereon within a period of 60 days from the date of submission of the request.

This writ application is disposed off with the aforesaid observation and directions.

The earlier order passed by the Committee shall not come in the way of fresh consideration.

(Rajeev Ranjan Prasad, J)

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