

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15048 of 2018

1. Madan Kumar Bhakt @ Madan Bhagat, Son of Sri Kailash Bhagat @ Sri Kailash Bhakt,
2. Sanjeev Kumar, Son of Late Bhushan Bhagat, Both are resident of Village P.O.- Mathura, P.S.- Biddupur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Forest and Environment Department, Govt. of Bihar, Patna
2. The District Magistrate-cum-Collector, Vaishali.
3. The Sub-Divisional Officer-cum-Sub-Divisional Magistrate, Hajipur, Vaishali.
4. The District Animal Husbandry Officer, Vaishali.
5. The Block Development Officer, Bidupur Block, District- Vaishali.
6. The Circle Officer, Bidupur Block, District- Vaishali.
7. The S.H.O., Bidupur Police Station, District- Vaishali.
8. The Sub-Inspector of Police, namely Sri Gajendra Kumar Singh, Bidupur Police Station, District- Vaishali
9. The Panchayat Secretary, Mathurapur Gram Panchayat, Bidupur Block, District- Vaishali.
10. The Chairman, Bihar State Pollution Control Board, Privesh Bhawan, Patliputra Industrial Estate, P.S. Patliputra, District-Patna
11. The Member Secretary, Privesh Bhawan, Patliputra Industrial Estate, P.S.- Patliputra, District- Patna.
12. The Regional Officer, Privesh Bhawan, Patliputra Industrial Estate, P.S.- Patliputra, District- Patna.
13. Harendra Kumar,
14. Harihar Roy, Both sons of Chandradeep Roy, Resident of Village P.O.- Mathura, P.S.- Biddupur, District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Mishra
For the Pollution Control Board:	:	Mr. Shivendra Kishore, Sr. Adv. Mr. Parijat Saurav
For the private Respondent/s	:	Mr. Surendra Kr. Singh
For the State	:	Mr.Raghwanand -Gall

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 04-04-2019



Heard the learned counsel for the petitioners, respondent nos. 13 & 14, Pollution Control Board as well as the State.

This writ petition has been filed for issuance of writ in the nature of certiorari for quashing the order contained in Memo No. 980 dated 22.06.2018 (Annexure-11) communicated by the Circle Officer, Bidupur to the petitioners, whereby the petitioners have been directed to close down their poultry farms and also for quashing the order dated 14.05.2018, as contained in Annexure-10, passed by the Sub-Divisional Officer-cum-Sub Divisional Magistrate, Hajipur in Misc. Case No. M1/1139/2017 under the Pollution Act, by which he has directed the Circle Officer, Bidupur to get measurement of the distance of poultry farm of the petitioners whether it is situated at a distance of 300m from the population of the nearby place and if the same is not beyond the aforesaid distance, take steps to close down the aforesaid poultry farms of the petitioners.

In compliance of aforesaid order of the S.D.O., Hajipur (as contained in Annexure-10), the Circle Officer by order dated 22.06.2018, as contained in Annexure-11, directed the petitioner to close down the poultry farms because it is situated within the distance of 300m from the populated area.



Learned counsel for the petitioners has submitted that the impugned order has been passed in violation of principle of natural justice. He has submitted that Bihar Pollution Control Board has filed its Counter Affidavit in CWJC No. 15127 of 2018, wherein it has been mentioned in para 21 that petitioners may operate their poultry farms after ensuring compliance with the guidelines issued by the Central Pollution Control Board, New Delhi for poultry farms.

Learned counsel for the State has filed Counter Affidavit in the aforesaid writ petition (i.e. C.W.J.C. No. 15127 of 2018), wherein it is mentioned that earlier C.W.J.C. No. 4458 of 2018 was filed in this Hon'ble Court levelling allegation against the poultry farm of petitioners that it is running in the Basti Mathura Village causing unbearable smell to the people of the village due to which they have started suffering several disease including breathing problem. Several villagers have raised objection by filing petition on 05.05.2017 before the District Magistrate, Vaishali. Copy of aforesaid petition is enclosed as Annexure-A to the Counter Affidavit.

It is mentioned in Counter Affidavit that on the basis of report of the Bihar State Pollution Control Board dated 04.07.2017 under Memo No. T-4028 and Memo No. T-4029,



petitioners were directed to stop functioning of the poultry farms failing which legal action was proposed to be taken. Copy of aforesaid Memo dated 04.07.2017 is annexed as Annexure-B to the Counter Affidavit. The District Magistrate, Vaishali vide letter no. 1116 dated 16.05.2017 directed the S.D.O., Hajipur to remove the poultry farm existing near the village. Copy of aforesaid letter dated 16.05.2017 is annexed as Annexure-C to the Counter Affidavit.

It is further mentioned in the Counter Affidavit that under Memo No. T-4028 and Memo No. T-4029 dated 04.07.2017 the Member Secretary of Pollution Board directed the petitioners to close the Poultry Farm forthwith failing which necessary action was proposed to be taken. Thereafter the S.D.O., Hajipur vide his letter no. 1096 dated 14.07.2017 directed the Circle Officer, Bidupur to close the Poultry Farm of petitioners, which is running illegally against the provision of the Pollution Control Act. Copy of aforesaid letter is annexed as Annexure-D to the Counter Affidavit.

The Circle Officer by letter no. 1421 and 1422 dated 02.08.2017 directed the petitioners to close the Poultry Farm within 48 hours failing which the action of lodging the F.I.R. against the petitioners was proposed to be taken. Copy of



aforesaid letter dated 02.08.2017 is annexed as Annexure-E to the Counter Affidavit.

It is further mentioned in the Counter Affidavit that Regional Officer, Pollution Control Board issued the show cause notice to the petitioners to explain as to why appropriate actions under the Act be not taken against them but the petitioners continued to run his poultry farms.

Learned counsel for the State has submitted that from all the aspects it will be apparent that poultry farms of petitioners are existing against the provisions of the Pollution Control Act. The same is dangerous to the human life. In terms of order passed by the Division Bench of this Court in C.W.J.C. No. 4458 of 2018 action has been taken against the petitioners.

It is mentioned in the Counter Affidavit that according to report submitted by the Authorities the poultry farms of petitioners is existing at the distance of 100-150 feet from the village, which was objected by the villagers. As a result Panchayat Secretary, Mathura made an inspection and took measurement and submitted report that the distance of the poultry farm from the house of the village towards north comes to 48.05 feet and towards south it comes to 73.05 feet.

Learned counsel for respondent nos. 13 and 14 has



also filed Counter Affidavit. They have submitted that besides 13 – 14 villagers, several villagers have made complaint to close down the poultry farm of the petitioners.

The State has filed the guidelines of the Central Pollution Control Board, wherein it is mentioned that for new poultry farms sitting criteria has been fixed, that the poultry farm should not be located within 500m from residential zone.

Learned counsel for the State has mentioned in the Counter Affidavit that measurement was made by Panchayat Secretary, Mathura. There is report of Anchal Amin which is annexed as Annexure-D to the Counter Affidavit, wherein it is mentioned that poultry farm of the petitioners is situated within the distance of 300m from the populated area. In fact it is at a distance of 100 to 150 feet from the village.

Therefore, this Court after looking into the guidelines of the Central Pollution Control Board and the inspection report of the Pollution Control Board as well as the Panchayat Secretary, which is annexed as Annexure B and D to the Counter Affidavit, finds that Circle Officer has directed the petitioners to remove their poultry farms on the basis of aforesaid reports.

As such, this Court does not find any illegality in the



impugned orders dated 14.05.2018 (Annexure-10) and dated 22.06.2018 (Annexure-11).

The instant writ petition is accordingly dismissed.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	
Uploading Date	17.04.2019
Transmission Date	

