

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23986 of 2018

Arti Singh wife of Umesh Kumar Singh resident of Plot no. 4 Vigyan Khand - 2, Near Loyola Public School, Gomti Nagar, P.S.- Chinchhat, District - Lucknow. presently at village - Mangolapur, P.S.- Jalalpur, District - Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Environment and Forest Department, Bihar, Patna.
3. The District Environment Impact Assessment Authority, Saran, Bihar, through D.M. Saran.
4. The District Magistrate, Saran.
5. Bihar State Pollution Control Board through its Chairman, Paryavaran Bhawan, Kurji, Patna.
6. The Secretary, Bihar State Pollution Control Board Paryavaran Bhawan, Kurji, Patna.
7. The Regional Officer, Bihar State Pollution Control Board, Industrial Estate, Bela, Muzaffarpur.
8. The Union of India, through its Secretary, Environment, Forest and Climate Change, Indira Paryawara Bhawan, Jorbagh Road, New Delhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar
For the Pollution Board	:	Mr. Abhimanyu Singh
For the Respondent/s	:	Mr.Dhurjati Kr. Prasad- Gp14

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 02-04-2019

Heard the learned counsel for the petitioner, the Pollution Board and the State.

The instant writ petition has been filed for issuance of an appropriate writ/s, order/s, direction/s for quashing Ref. No. 602 Muz., dated 28.02.2018 issued by respondent no. 7, by which NOC for installation of brick-kiln has been granted only for six



months from the date of issuance of said letter in violation of notification issued by respondent no. 8 dated 15.03.2018, for giving NOC to the brick-kiln running in the name of M/s Arti Int Udyog for a period of five years and also for issuance of appropriate writ/s, order/s, direction/s to the respondent to consider the suggestion put forward by the petitioner through her husband in compliance of notification dated 15.03.2018 issued by respondent no. 7, by which suggestions have been solicited within 60 days from the date of issuance of that notification from the affected parties.

Clause 4 of Annexure-7 reads as under:

“Unit shall submit application again through same user ID and Password for extension of consent period along with evidences such as photographs and other documents of constructions of brick kiln with cleaner technology on or before 31.08.2018 subject to satisfaction of the Board in this regard. CTO will be extended for the balance period.”

Learned counsel for the petitioner has submitted that he has made payment of Rs. 1,50,000/- for the period of five years for issuance of NOC but the consent order has been given only for six months till 31.08.2018.



Learned counsel for the State has filed Counter Affidavit stating therein that to improve the overall Ambient Air Quality, a meeting was organized under the chairmanship of the Chief Secretary, State of Bihar on 23.09.2015, in which it was decided that in the first phase, brick kilns situated in 5 blocks of Patna district, namely, Patna Sadar, Danapur, Phulwari Sharif, Maner and Fatuha, will convert into Cleaner Technology. Accordingly, related decision/information was published through Daily news papers on 18.02.2016 directing the brick kilns situated in 5 blocks to convert into Cleaner Technology by 21.08.2016. In 104th meeting of the Board held on 19.09.2016 it was decided that by 01.09.2017 all the brick kilns in the entire state of Bihar will have to convert into Cleaner Technology. Photocopy of relevant portion of the minutes of 104th Board meeting is annexed as Annexure-R/5-C to the Counter Affidavit.

It has been submitted by the learned counsel for the State that the Board, on receiving representations filed by the brick kiln owners regarding their inability to convert into Cleaner Technology within the stipulated time-frame, considered their incapacity and by its notification no. 16 dated 11.10.2017 conditionally extended the cut off date for conversion to Cleaner Technology from 01.09.2017 to 31.08.2018. Copy of aforesaid



notification is annexed as Annexure-R/5-D to the Counter Affidavit.

It is further submitted that the Hon'ble Court by judgment passed in C.W.J.C. No. 15962/2018 in case of ***Suman Kumar Jha Vs. State of Bihar*** reported in ***2019(1) PLJR 268*** and in other cases, after considering the cases of different brick kiln owners, has extended the cut off period till 31.08.2019. The government has accordingly come out with fresh notification bearing no. 37 dated 07.12.2018, which is annexed as Annexure-R/5-f to the Counter Affidavit, subsequent to passing of the order of this Court, by which the cut off date for conversion into cleaner technology has been set to 31.08.2019.

Learned counsel for the State has pointed out the affidavit filed by the petitioner as contained in Annexure-2, whereby he has agreed to convert the brick kiln into Cleaner Technology by 31.08.2018.

Learned counsel for the petitioner has submitted that he may be allowed to continue the brick kiln till 31.08.2019 in terms of latest notification issued by the government as contained in Annexure-R/5F. He will in the meantime convert the brick kiln into Cleaner Technology.



Learned counsel for the petitioner has made prayer to extend his *NOC* till 2020 since he has already deposited money for five years.

This Court finds that after passing of judgment in C.W.J.C. No. 15962 of 2018, the government has come out with the fresh notification as contained in Annexure-R/5F, by which it has extended the period for conversion into cleaner technology for all the brick kilns in the State of Bihar to 31.08.2019. They have given permission to run the brick kilns till that date.

Therefore, this Court is not inclined to give direction for extension of period of *NOC* for two years.

This writ petition is accordingly disposed off.

(Sanjay Priya, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	16.04.2019
Transmission Date	

