

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20498 of 2019

=====

Shambhu Sharan Singh S/o- Sri Bigan Singh Director, Vivekanand Mission School, resident of Biley Vihar (Lala Amouna), P.S. Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Industry Department, Government of Bihar, Patna.
2. The Principal Secretary, Agriculture Department, Government of Bihar, Patna.
3. The Collector, Aurangabad, District- Aurangabad.
4. The Additional Collector-Cum- District Grievance Redressal Officer, Aurangabad, District- Aurangabad.
5. The Sub Divisional Officer, Daudnagar, P.S. Daudnagar, District- Aurangabad.
6. The Bihar State Pollution Control Board through its Chairman, Parivesh Bhawan, Plot No.- NSB-02, Patliputra Industrial Area, Patna.
7. The Chairman, Bihar State Pollution Control Board, Parivesh Bhawan, Plot No.- NSB-02, Patliputra Industrial Area, Patna.
8. The Regional Officer, Bihar State Pollution Control Board, Parivesh Bhawan, Plot No.- NSB-02, Patliputra Industrial Area, Patna.
9. Laxman Prasad S/o Sri Rameshwar Singh Director/ Proprietor of Rameshwari Cold Storage, A Unit of Rameshwari Agro Service Pvt. Ltd., resident of Village- Bhakharuan More, Gaya Road, P.S.- Daudnagar, District- Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi with Mr Jainandra Kr. Advts.
For the Respondent/s	:	Mr.Sanjeev Kumar with Mr. Rajeev Kr. Advts.
For the P.C.B	:	Mr. Shivendra Kishore, Sr. Adv.

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 04-02-2020

Heard Mr. Suraj Samdarshi, learned counsel for the petitioner and Mr. Sanjeev Kumar, learned counsel for the private respondent and Mr. Shivendra Kishore, learned Sr. counsel for the Bihar State Pollution Control Board (*for brevity 'the Board'*).

Petitioner's counsel submits that he is aggrieved by the



consent to operate the Cold Storage Unit granted under order dated 18.4.2019 by the Board.

The learned Sr. counsel, representing the Board, submits that the petitioner has remedy, by way of appeal, before the Member, Board of Revenue. The said submission has to be viewed in background of other submissions being advanced on behalf of the petitioner's counsel that the Cold Storage Unit was barred as being within the prohibited distance prescribed under the relevant law for the said purpose. The submission is that without proper physical verification and without any determination, regarding the proximity of the said Unit with the school in-question, the consent to operate has been granted by resorting to a misinterpretation of the provisions governing the prohibited distance of such Unit from the educational institutions, Hospitals and Courts.

These issues are issues of fact. The petitioner, as per the submissions of the learned Sr. counsel for the Board, has a remedy under Section 31 of the Air (Prevention and Control of Pollution) Act, 1981, before the Member, Board of Revenue.

In view of the adequate alternative statutory remedy available to the petitioner, wherein, all these issues of facts can be raised and properly examined. This Court does not deem it appropriate to exercise the jurisdiction under Article 226 of the Constitution of India. The petitioner would be at liberty to avail of the remedy in accordance with law.



Learned counsel for the petitioner submits that on account of the pendency of the instant proceedings, the appeal would now be delayed, as per provisions contained in the Act. This Court would observe that if appeal is filed within a period of four (04) weeks from today, the Member, Board of Revenue, shall proceed to consider the same , in accordance with law, without raising the issue of delay.

With the aforesaid observation/direction the writ application is disposed off.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.02.2020
Transmission Date	N/A

