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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 3646 of 2019

RSPL Limited through Mr. Jaswinder Singh, S/o Mr. Babu Singh aged About 41 Years, Plant Manager, Having It's Unit at PH Number 100/28, Khasra Number P H 31, 33, 34, and 37, Village Achholi, District Raipur, Chhattisgarh. Having It's Registered Office at 119-121 (Part) Block Post and Tahsil Fazalganj, Kalpi Road Kanpur, Uttar Pradesh.

---Petitioner(s)

Versus

C.G. Environment Conservation Board Through its Regional Officer Commercial Complex, C.G. Housing Board Colony, Kabir Nagar, Raipur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Daleep Dhyani, Advocate.
For Respondent	:	Shri Animesh Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

02.03.2020

1. Challenge in the present writ petition is to the order dated 18.09.2019 whereby the petitioner was firstly directed to close down the industry forthwith and secondly the concerned authorities were directed to discontinue electricity, water and other facilities provided to the unit. The petitioner was further called upon to provide their representation/reply to the show cause notice within 15 days, failing which appropriate proceedings would be drawn.
2. It is relevant at this juncture to refer that the petitioner had immediately rushed to this court by filing present writ petition and this court on 04.10.2019 had entertained the writ petition and had granted interim protection to the extent that no co-ercive steps to be taken against the petitioner till the next date of hearing. The interim protection since then is continuing in operation in favour of the petitioner.
3. What is further necessary to be taken note of is that, while granting interim relief this court has clearly mentioned that the respondent-Board shall

continue with the hearing in response to the show cause notice issued against the petitioner.

4. The counsel appearing for the respondent today submitted that after the interim order granted by this court on 04.10.2019, another inspection was conducted on 17.10.2019 and the faults on the part of the petitioner-establishment were still found continued, which the petitioner vehemently disputes and denies. Thereafter, another show cause notice is said to have been issued in December, 2019, to which there is no reply filed by the petitioner and the respondent-Board also has not proceeded further with the enquiry on account of interim order dated 04.10.2019.
5. The counsel for the petitioner as of now submits that it is a case where the entire contention of the respondent-Board that the petitioner is polluting industry and that pollution is being remitted both Air and Water from the petitioner's establishment is totally incorrect. According to the petitioner, the complaint has been lodged on account of external factors arising out of business rivalry. He further submits that the petitioner is ready to go in for a joint inspection of the establishment and the samples be collected in presence of officers of the petitioner establishment as well as respondent-Board and which can be subjected to test from an authentic laboratory.
6. The petitioner further submits that he is not shying away from any sort of enquiry, but the only apprehension is that the authorities should not sit with a pre-determined mind. The conclusion or the enquiry should not appear to have been only formality done without proper application of mind. The petitioner is ready to face any sort of test to determine whether any actual pollution by the petitioner-establishment is being caused or not.
7. Given the said submission by the counsel for the petitioner, this court is of the opinion that the ends of justice would meet if the writ petition is

disposed of at this juncture directing the respondent-Board to continue with the enquiry in accordance with law, however the respondent should ensure that proper, reasonable and fair opportunity of representation and defence is provided to the petitioner. If required, let joint inspection once again be conducted and fresh samples be also collected in presence of the officers of the petitioner-establishment as well as the respondent-Board and the same be subjected to proper test in terms of the provisions of law both under the Water (Prevention and Control of Pollution) Act, 1974 and under the Air (Prevention and Control of Pollution) Act, 1981 and an appropriate order be passed thereafter in accordance with law.

8. Pending the enquiry, however, the direction given by the respondent-Board on 18.09.2019 to the extent of petitioner-establishment be shut down and direction given to the concerned authorities for discontinuation of electricity, water and other facilities are concerned, shall not be pressed upon by the respondent-Board till conclusion of the enquiry.
9. With the aforesaid observations/directions, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge