

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 1255 of 2021

1. Ahibaran Lal Patel, S/o. Ramgovind Patel, aged about 61 years, R/o. Salvadera Fatakpara Madwarani Post Jarve District Korba Chhattisgarh.
2. Kaushal Kumar, S/o. Lakhan Lal, aged About 25 Years
3. Firatram Patel, S/o. Surit Ram Patel, aged about 30 years,
4. Raju Patel, S/o. Surit Ram Patelm Aged About 25 Years
5. Ramprasad Patel, S/o. Tikaitram, Aged About 31 Years
6. Pataitram, S/o. Ujit Ram Patel, Aged About 49 Years
7. Laxman Patel, S/o. Tilochan Patel, Aged About 46 Years

No.2 to 7 all are R/o Village Jarve Purena District Korba Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh, Through : The Secretary, Department of Housing and Environment New Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District Raipur Chhattisgarh.
2. Collector, District Korba Chhattisgarh.
3. Regional Office Chhattisgarh Environment Conservation Board Near Tehsil Office Rampur Korba District Korba Chhattisgarh.
4. M/s Madwarani Fly Ash Bricks Proprietor Babulal Village Madwarani Post Jarve Tehsil Kartala District Korba Chhattisgarh.
5. Tehsildar Kartala District Korba Chhattisgarh.

---- Respondents

For Petitioners	: Mr. Sushobhit Singh, Advocate
For State/respondents	: Mr. Ashish Tiwari, Govt. Advocate
For Respondents No.3	: Mr. Abhijeet Mishra, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/10/2021

1. This petition has been brought praying for appropriate writ directing the respondents No.1 to 3 to initiate proceeding under the provisions of Air (Prevention & Control of Pollution) Act, 1981 (hereinafter referred to as “the Act, 1981”) against the respondent No.4.
2. It is submitted by the learned counsel for the petitioners that the petitioners are residents of village – Madwarani Jarve. Respondent No.4 has established a plant for production of Fly Ash Bricks on Kh. No.1693. Obnoxious and poisonous gases are released from the dust of that plant because the petitioners and all the residents of the area are suffering from various health problems. Complaints were given, on which inspection was made by a team. In the report submitted by the team, it is mentioned that the local residents of the area are facing health hazard and also that the plant for production of fly ash bricks is operating illegally. The petitioners have filed representation, but the same have not been considered and decided by the respondents No.1, 2 and 3 so far. Hence, it is prayed that appropriate orders be passed.
3. Learned State counsel appearing for the respondent No.1 and 2 opposes the petition and the submissions made in this respect. It is submitted that in the reply given, it has been conceded that the land on which the plant of respondent No.4 is situated has not been diverted. It is also submitted that the respondent No.4 has taken all measures to control the pollution and the air quality index level is under permissive criteria as prescribed in the National Ambient Air Quality Standards of Schedule VII of Rule 3 (3-B), of Environment (Protection) Rules 1986. Hence, this petition be dismissed and disposed off.
4. Learned counsel for the respondent No.3 opposes the submissions made by the counsel for the petitioners and submits that respondent

No.3 has carried out spot inspection for ambient air quality monitoring. According to the report submitted, it was found that respondent No.4 has taken all measures to keep the air quality under the permissive limits. It is prayed that present petition be dismissed.

5. Respondent No.4 is not represented.
6. I have heard the learned counsel for the parties and perused the documents placed on record.
7. Considered on the submissions. Complaint of the petitioners regarding pollution created by the industry of the respondent No.4 has been answered by the respondent No.1, 2 and 3 in contradiction, however, the representation that have been made by the petitioners, before the respondent No.2 are pending for decision, which can be taken into consideration on the rival claims made and for passing appropriate order. Hence, this petition is disposed off at motion stage. The representation of the petitioners are already pending, before the respondent No.2, however, liberty is granted to the petitioners to file a fresh representation within a period of 15 days and the respondent No.2 is directed that subsequent to 15 days, the respondent No.2 shall proceed to consider on the representations pending and freshly filed and pass appropriate order preferably within a period of 60 days in accordance with law.
8. Accordingly, with the aforesaid observations, this petition is disposed off .

Sd/-
(Rajendra Chandra Singh Samant)
Judge