

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7020 of 2021

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Gautam Kumar, S/o Ramcharan Das, Proprietor of M/s D L G Bricks, Vill-
Bindnagar PO- Gamhiragrah, Block- Thakurganj, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Forest and Environment, Government of Bihar.
2. The Principal Secretary, Department of Mines and Geology, Government of Bihar.
3. The Bihar State Pollution Control Board, Patna through its Member Secretary, Paryawaran Bhawan Patliputra Industrial Area, Patna.
4. The Chairman, Bihar State Pollution Control Board Patna.
5. The State Environment Impact Assessment Authority Bihar Patna through its member Secretary, Beltron Bhawan, Sastri Nagar, Patna.
6. The Chairman, The State Environment Impact Assessment Authority, Bihar, Beltron Bhawan, Sastri Nagar, Patna.
7. District Magistrate, Kishanganj.
8. The District Mining Officer, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rishikesh Ojha, Advocate

For the Respondent/s : Mr. Raghwanand, GA-11

Mr. Parijat Saurav, Advocate

Mr. Naresh Dikshit, Spl. P. P. Mines

Mr. Abhimanyu Singh, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR**

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-01-2022

Petitioner has prayed for the following relief(s):-

That For issuance of writ\writs in the nature of mandamus commanding and directing the respondents specially Bihar State Pollution Control Board to issue the CTE [NOC] and CTO [consent to operate] in favor of the petitioner's Bricks kiln namely D.L.G BRICKS , after consider his application dated 7.10.2018 or fresh application filed in the light of letter dated 8.5.2019 and 15.9.2020 , for obtained NOC, in the light of Notification vide Notification no A.N-01\L.K[Bricks]-42\20-2645 m\ dated 14.9.2020 issued after amendment " Bihar Minerals [concession, prevention of illegal mining, transportation and storage][AMENDMENT] Rules 2020.and also follow his own direction through letter daed 8.5.2019 and 15.9.2020 , issued by B.S.P.C.B , directed the petitioner to file fresh application before



B.S.P.C.B for the same . Subjected to obtained Environmental Clearance prior to the same. The letter dated 8.5.2019 and 15.9.2020, was issued after received the show cause, filed by the petitioner in compliance of the direction, issued in the light of letter dated 14.4.2019 , Issued by Chairman , B.S.P.C.B, Patna . Earlier the show cause dated 5.11.2018, filed by the petitioner before the DEIAA in the light of notice dated 29.10.2018 , issued by Member Secretary DEIAA KISHANGANG in discriminatory manner after received the complain, by the stranger, against the petitioner , Which was arbitrarily and maliciously kept pending by the respondents from 5.11.2018, and debar the petitioner from E.C Till the date 14.09.2020 , the date of amendment in " Bihar Mines and Minerals Rules 2020". Through which the activity of bricks kiln was kept in the category of the non mining activity and for that E.C shall not required. There after petitioner submit application and requested to issue NOC and CTO from B.S.P.C.B on his application dated 7.10.2018 but the same was kept pending up till now. It is relevant to point out that Through notice dated 29.10.2018, DEIAA



committee has made allegation against the petitioner that he has acted contrary to the departmental rule, and without obtaining Environmental Clearance from the DEIAA, And Consent to Establishment [CTE] [NOC] from Bihar State pollution control Board, has started the construction of the CHIMANI of his UNIT[DLG BRICKS] situated at mauza KHANABARI PERTAING KHATA NO 135, KHESHRA-160,161,162,163 etc, Total land-3.55 acres in THAKUR GANJ block kissanganj .

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the respondent No.4, namely, the Chairman, Bihar State Pollution Control Board Patna, before whom his request (page 66) is pending, to consider and decide the petitioner's request (page 66) within a time bound period.

Learned counsel for the respondents states that the petitioner's request shall be positively considered and decided expeditiously and preferably within a period of two months from the date of presentation of a copy of this order before the authority concerned.

Statement accepted and taken on record.



As such, petition stands disposed of in the following terms:-

(a) Petitioner shall make himself available in the office of respondent No.4, namely, the Chairman, Bihar State Pollution Control Board Patna on 17th of January, 2022 along with a copy of this order;

(b) The said respondent shall consider and dispose of the petitioner's request expeditiously by a reasoned and speaking order preferably within a period of two months from the date of appearance of the petitioner before him along with a copy of this order;

(c) Needless to add, while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Also, the reasoned and speaking order passed by the appropriate authority shall be supplied to the parties;

(e) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(f) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in



accordance with law and with reasonable dispatch;

(g) Liberty reserved to the petitioner to challenge the order before the appropriate forum, should the need so rise subsequently;

(h) We have not expressed any opinion on merits.

All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/K.C.Jha

AFR/NAFR	
CAV DATE	
Uploading Date	06.01.2022
Transmission Date	

