

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9410 of 2017

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Salimullah S/o Late Khalid Khan Resident of Nawgharwa Road Near Edare -
Sharia, P.S. - Sultanganj and District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate, Patna.
3. Senior Superintendent of Police, Patna.
4. Commissioner, Patna Municipal Corporation, Patna.
5. Sub-Divisional Magistrate, Patna City.
6. S.H.O Sultanganj Police Station, Patna.
7. Mahesh Prasad, S/o Late Ram Nath Ram, Residence/Mohalla- Khan Mirza,
P.S.- Sultanganj, Patna.
8. Md. Afzal, Son of Late Md. Idris, Resident of Mohalla- Garam Tola, P.S.-
Sultanganj, District- Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 15858 of 2017

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Saroj Kumar S/o Sri Lakhan Lal, Resident of Mohalla- Rajput Toli, Arfabad,
P.O.- Gulzarbagh, P.S.- Alamganj, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Bihar State Pollution Control Board through Secretary, Patna, Bihar.
3. District Magistrate, Patna.
4. Senior Superintendent of Police, Patna.
5. Commissioner, Patna Municipal Corporation, Patna.
6. Sub-Divisional Magistrate, Patna City.
7. S.H.O. Alamganj, Police Station, Patna.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 9410 of 2017)

For the Petitioner/s : Mr. Hansa Jha, Advocate
Mrs. Shweta Pandey, Advocate
Mrs. Manisha Pandey, Advocate
Mr. Nirbhay Kumar Singh, Advocate
Mr. Dharendra Kumar Singh, Advocate



For the Respondent/s : Mr. Pratyush Pratap Singh, Advocate
Mr. Sarvesh Kumar Singh, AAG-13
Mr. Shivendra Kishore, Sr. Advocate
(In Civil Writ Jurisdiction Case No. 15858 of 2017)
For the Petitioner/s : Mr. Deepak Kumar, Advocate
Mrs. Shweta Pandey, Advocate
Mrs. Shweta Pandey, Advocate
For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13
Mr. Shivendra Kishore, Sr. Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-06-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

- (i) For directing the respondent authorities especially those empowered under the Air (Prevention & Control of Pollution) Act, 1981, to act in accordance with law on the representation filed by the residents of the area of the petitioners.
- (ii) For directing the respondent authorities to take immediate interim as well as permanent steps against the illegal factories in the area manufacturing iron chests, steel almirah etc. and to immediately restrain them from spreading air and sound pollution.



- (iii) For directing the respondent authorities to make necessary enquires with respect to the fact as to how the manufacturing units of iron chets, steel almirah etc. have come up in a purely residential area and are being permitted to be run without valid permit and in utter violation of the Air (Prevention & Control of Pollution) Act, 1981.
- (iv) For a prayer before the Hon'ble Court to call for a report from the respondent District Magistrate, Patna and/or any other authority duly empowered by notification dated 06.04.2017 notified them as Regional Officers under the Bihar State Factories Control Board, as to what steps and action they have taken on the representation filed before them.

On 2nd of March, 2020, we had passed the following order:-

“From the affidavit dated 25th of February, 2020, sworn by Shri Ashish Kumar Gupta, Environmental Engineer, Bihar State Pollution Control Board, it is apparent that now action stands taken by the Pollution Control Board in closing down the units which were running without legal sanction.

The chart submitted in a tabular form, indicating the



status of the units in the area in question, is reproduced herein under:-

Sl. No.	Particulars	No. of Unit(s)
1.	Permanently Closed/Closed	58
2.	White category units	09
3.	Units operational with CTE and without CTO.	06
4.	Units operational without CTE and CTO	11
5.	Units operational with Consent obeying the consent conditions	09
6.	Units operational with consent but violating consent conditions	12

We notice from Paragraphs 8, 9 and 10 of the very same affidavit that directions for closing such of those units which are being run without legal sanction also stands issued.

Paragraphs 8, 9 and 10 of the affidavit dated 25th of February, 2020 reads as under:-

“8. That the units falling under Sl. no. 3, 4 and 6 are amenable to actions for violation of the provisions of the Air Act and the Board has already issued ‘Proposed Direction for Closure’



to the 06 units falling under Sl. no. 3 vide its order dated 30-11-2019, & has issued closure direction and finally have filed complaint case against the units falling at sl. no. 4 of table above. The above mentioned actions were taken on basis of findings of the inspection carried out by the Board on 06-11-2019.

9. That with respect to 14 units identified by the Advocate commissioners which are functional with valid CTOs but violate one or more conditions of the CTO it is to be stated that 'Proposed Direction' under Section 31A of the Air Act, 1981, has been served upon 11 such units and with respect to remaining three units it is humbly submitted that unit at sl. no. 50, M/S Trishul Furniture, does not have a valid CTO and it has only taken 'Consent-to-Establish' (CTE) and as such 'Proposed Direction for Closure' has been issued against this unit vide order dated 05.02.2020. Unit at sl. no. 65, M/S Top Steel falls in 'White Category' and as such it is exempted from consent mechanism. Unit at sl. no. 60, M/S Ideal Steel, has already been served with 'Closure Direction', however, during inspection it was found to be operational and as such a complaint case will be instituted against it.
10. That with respect to 4 units identified by the Advocate commissioners, which were found to be operational without consents, it is humbly submitted that 'Proposed Direction for Closure'



has been issued against two such units and Closure Direction' has been issued against two such units and complaint case has also been instituted against these two units.”

Let action taken report with regard to the closing of such units be filed by the Pollution Control Board as also by the respondent-State.

We further direct that henceforth the Pollution Control Board shall not issue any No Objection Certificate for establishing any unit in the area in question, which is residential. However, we clarify that No Objection Certificates may be issued strictly in accordance with law.

Parties to exchange the pleadings within one week.

List on 04.05.2020.”

Today, a supplementary counter affidavit stands filed on behalf of the Pollution Control Board, clearly stating that out of 124 units which were inspected, 77 units were closed and are non-functional. With respect to the other units, action in accordance with law stands taken.

In this view of the matter, we are inclined to close the present proceedings further directing the Pollution Control Board to carry out periodical inspections for checking as to whether any unauthorised and illegal activity, commercial in



nature, is being carried out in a residential area.

Equally, it is open for the petitioners to agitate the issue afresh with the authorities, including the Pollution Control Board.

Needless to add, the Pollution Control Board shall not grant any N.O.C. with respect to any industry which is not permissible to be established or made functional in a residential area.

The present application stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	30.06.2022
Transmission Date	

