

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.352 of 2023

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M/s Muskaan Event Management and Caterers Pvt. Ltd., through its Managing Director Mr. Kamaljit Singh male aged about- 46 Years Son of Sir Harbansh Singh Resident of G.M. Road, S. P. Ghosh Lane, Patna-800004 at Present Expression Exotica, Gola Road, Patna-801503.

... .. Petitioner/s

Versus

1. The Bihar State Pollution Control Board, through its Chairman.
2. The District Magistrate, Patna, Bihar.
3. The Sub Divisional Officer, Patna. Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Akash Keshav, Advocate
For the Respondent/s	:	Mr. Abhimanyu Singh, Advocate
For the State	:	Mr. AC to GP 14

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date : 24-01-2023

Heard Mr. Akash Keshav, learned counsel for the petitioner; learned AC to GP 14 for the State and Mr. Abhimanyu Singh, learned counsel for the Bihar State Pollution Control Board (hereinafter referred to as the 'Board').

2. The petitioner has moved the Court for the following relief:

“ That this is an application praying for issuance of a writ in the nature of a writ of certiorari or any other appropriate writ, order or direction, for setting aside the order issued under Section 31 A of the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as the Air Act) and Section



33A of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the Water Act) vide letter bearing Ref number 3013 dated 16.09.2022 issued by the Chairman, Bihar State Pollution Control Board, whereby the petitioner has been directed to close and stop operation of Banquet and Restaurant M/S Ghar Aangan with immediate effect. It is further prayed for issuance of a writ in the nature of a writ of Mandamus or any other appropriate writ order or direction commanding the respondent authorities in particular Respondent no. 3 i.e. the learned SDO to stop hindering the petitioner from operating his restaurant.”

3. The issue involved is the sealing of the commercial premises of the petitioner by the Board on the ground that certain statutory norms were being violated relating to air, water and sound pollution.

4. Learned counsel for the petitioner submitted that suddenly he has been visited with the order of closure, despite having booked the premises for various functions, including marriages and now they are under pressure. However, it was submitted that the petitioner undertakes to comply with all the requirements for which some time be given.

5. Learned counsel for the Board submits that the closure notice is of the month of September, 2022 and sufficient time has passed and the petitioner has never approached the Board with regard to any scheme showing that such issues would be resolved. Moreover, it was submitted that prior to starting of such



venture, a consent to operate had to be obtained from the Board which has not been done. Still, learned counsel submitted that if the petitioner complies with all the statutory requirements, upon the Board being satisfied of such compliance after holding a spot inquiry/ inspection, all necessary orders shall be given to the petitioner upon such satisfaction of the statutory requirements. The only apprehension expressed by learned counsel was that till date no formal application has been filed seeking such consent and, moreover, after a lapse of more than four months, no steps have been taken to show the *bona fide* of the petitioner.

6. Learned counsel for the petitioner submitted that the requirement shall be complied with.

7. Be that as it may, the writ petition stands disposed of with liberty to the petitioner to rectify/comply with all the statutory requirements relating to air/water/noise pollution etc. Upon the same being done, an application would be filed by the petitioner before the Board for consideration of grant of consent for operating the premises. Such would be given in writing. Within 48 hours of such written intimation being served on the Board, an inspection would be held of the premises concerned and depending on the result, the Board would either give consent for operation or would point out what remaining deficiency exists, as per the



statutory standards. Needless to say, upon the petitioner ultimately fulfilling all the statutory requirements and the same being verified by actual site inspection by the Board, necessary permission/consent shall be given by the Board. Thereafter, the petitioner shall be entitled to run his business.

8. It is made clear that till the time all statutory compliance is not made and verified by the Board, the Unit shall not be functional, except for ensuring compliance of the statutory requirements.

(Ahsanuddin Amanullah, J)

(Harish Kumar, J)

Ranjeet/-Anjani

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