

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6880 of 2018

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Raj Kishore Jain S/o Late Chunni Lal Jain, R/o Village-Jain Campus,
Rajendra Path Siwan, P.O.-Siwan, P.S.-Siwan Nagar, District-Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Siwan.
3. The Bihar State Pollution Control Board, Patna.
5. The Secretary, Bihar State Pollution Control Board, Patna.
6. The Sub-Divisional Officer, Siwan.
7. The Central Pollution Control Council, New Delhi.
8. Ragini Gupta, W/o-Vijay Kumar Gupta, R/o Village-Kasba Siwan, Ramraj Mor, Lohiya Nagar, P.S.-Siwan Nagar, District-Siwan.
9. Mamta Gupta, W/o- Sanjay K Umar Gupta, R/o Village-Mirganj Dakshin Tola, Sonar Patti, P.S.-Mirganj, District-Gopalganj.
10. Douli Gupta, W/o-Rajesh Kumar, R/o-Main Road Mirganj, P.O.-Mirganj, P.S.-Mirganj, District-Gopalganj, At Present Ramraj Mor Siwan, P.S.-Siwan Nagar, District-Siwan.
11. Sanjeet Kumar, S/o-Sri Surendra Kumar Gupta, R/o Village-Kasba Siwan, Ramraj Mor, Lohiya Nagar, P.S.-Siwan Nagar, District-Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rohit Kumar Tripathi, Advocate
For the State	:	Mr. Anant Pd. Singh, SC 15
		Mr. Mithilesh Kumar Singh, AC to SC 15
For the B.S.P.C.B.	:	Mr. Shivendra Kishore, Sr. Advocate
		Mr. Parijat Saurav, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 10-08-2023

Heard Mr. Rohit Kumar Tripathi, learned

Counsel for the petitioner and Mr. Shivendra Kishore, learned

Senior Counsel who represent the Bihar State Pollution Control

Board and Mr. Mithilesh Kumar Singh, learned AC to SC 15.



2. It is unfortunate that due to dereliction on the part of the State/Pollution Board, the citizen has to approach the Court with simple prayer to restrain those persons in the District of Siwan who are creating noise pollution/air pollution causing miseries on them.

3. It is the case of the petitioner that on the day the writ petition was filed, he was 77 years old (and now is 82 years old) approached this Court complaining that the area around him becomes noisy during the marriage time *inasmuch as* there is complete noise pollution with high decibel DJs being used even after the mid-night which is affecting not only his health as also his family members, the entire society.

4. He ran from pillar to post for the redressal of the grievance which includes the District Magistrate, Siwan, the Chairman, Bihar State Pollution Control Board, the Sub-Divisional Officer, Siwan, as also the Chairman, Central Pollution Board. It is his case that only Central Pollution Control Board, New Delhi took cognizance of the matter and directed the State Pollution Board to take appropriate steps.

5. His submission is that this cut little ice with the respondents who chose to look the other way.

6. He has taken this Court to the Division Bench order



of Patna High Court in the case of **Samir Kumar vs. The State of Bihar** in **CWJC No. 18942 of 2015** disposed of on 23.11.2020 in which the Division Bench passed the following order:-

“We notice that with the passage of time the State Government has taken certain steps, checking noise pollution within the Municipal limits of Patna town. We are also of the view that with the passage of time, the present petition has outlived its purpose and utility.

The Pollution Control Board is duty bound to take all steps ensuring compliance of the provisions of the Air (Prevention and Control of Pollution) Act, 1981.

As such, we dispose of the present petition in the following terms:

(a) The Bihar State Pollution Control Board shall carry out a survey and prepare a status report with regard to the noise pollution within the Municipal limits of Patna town;

(b) the provisions of the Air (Prevention and Control of Pollution) Act, 1981 as also the Noise Pollution (Regulation & Control) Rules, 2000 shall be accounted for while carrying out such study;

(c) such report shall be prepared and made public on the official website of the Board within next three months;



(d) the authorities including the Bihar Pollution Control Board shall take appropriate remedial measures for implementing the provisions of the Act and the Rules in terms of the said report;

(e) liberty reserved to any public spirited person including the present petitioner to approach the Court on the same and subsequent cause of action, if so required and desired.

Assistance rendered by Shri Mrigank Mauli, learned counsel is fully appreciated.

Petition stands disposed of in the aforesaid terms.

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

7. It is his submission that what is good for Patna is equally good for Siwan and as such, he expects the same direction from this Court.

8. Mr. Shivendra Kishore, learned Senior Counsel appearing for the respondent nos. 3 to 5 submits that the petitioner failed to approach them with proper representation and as such, no decision could be taken. He however, concedes that they had received a letter from Central Pollution Control Board on 07.12.2016 itself (Annexure 2 to the petition) but failed to take decision.

9. It is unfortunate that the State Pollution Control



Board waits for a proper representation from a person despite the fact that it had got knowledge of the matter in view of the letter sent by the Central Pollution Control Board, New Delhi.

10. Learned State Counsel submits that the District Administration will also be taking necessary steps in the matter.

11. In that view of the matter and particularly when the State Pollution Board is having complete knowledge of the matter since 2016 itself, it has to start its wheel moving.

12. The petitioner undertakes to file fresh representation, if such representation is filed, the State Pollution Board is duty bound to follow the direction given by the Division Bench in **Samir Kumar (supra)** case *inasmuch as* it has to pass an order in following terms:-

(a) it has to carry out a survey and prepare a status report with regard to the noise pollution within the Municipal limits of Siwan town;

(b) the provisions of the Air (Prevention and Control of Pollution) Act, 1981 as also the Noise Pollution (Regulation & Control) Rules, 2000 shall be accounted for while carrying out such study;

(c) such report shall be prepared and made public on the official website of 'the Board' within next three months;



(d) the authorities including the Bihar Pollution Control Board shall take appropriate remedial measures for implementing the provisions of the Act and the Rules in terms of the said report.

(e) liberty reserved to any public spirited person including the present petitioner to approach the Court on the same and subsequent cause of action, if so required and desired.

13. The remedial measure does not mean passing of the order rather State Pollution Control Board shall ensure that whatever order they pass, implemented on the ground.

14. The District Administration, Siwan as also the office of Superintendent of Police, Siwan are also duty bound to ensure that the directions that has been given by the Hon'ble Apex Court relating to noise/air pollution and the further orders passed by the Patna High Court from time to time on the same issue is/are followed in its letter and spirit.

15. Learned State Counsel undertakes that a copy of the order will be immediately sent to the office of the District Magistrate, Siwan as also the Superintendent of Police, Siwan. The petitioner may on his side submit an order of this Court to the office of the District Magistrate, Siwan and Superintendent of Police, Siwan.



16. The State Pollution Board is duty bound to complete the entire exercise within a period of three months from the submission of the representation before it.

17. The writ petition stands disposed of.

(Rajiv Roy, J)

Neha/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	16.08.2023
Transmission Date	

