

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16993 of 2023

M/s. Espana Tanner Through its Authorized representative Mohammad Hamid Azhari, Male, Aged about-58 years, S/o- Mohammad Azhar Islam, R/o- Ward No.09, Power House Chowk, Maripur, Bhagwanpur, Muzaffarpur, Bihar 842001.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Environment, Forest and Climate Change Department, Govt. of Bihar, Patna.
3. The Bihar State Pollution Control Board, through its Chairman, Beltron Pariwesh Bhawan, NSB 02, Patliputra Industrial Area, Patna 800010, Bihar.
4. The Chairman, Bihar State Pollution Control Board, Pariwesh Bhawan, NSB 02, Patliputra Industrial Area, Patna 80010 Bihar.
5. The Member Secretary, Bihar State Pollution Control Board, Pariwesh Bhawan, NSB-02, Patliputra Industrial Area, Patna 80010 Bihar.
6. The Regional Officer, Bihar State Pollution Control Board, Beltron Bhawan, Bailey Road, Patna, Bihar.
7. The Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
8. Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna 800004.
9. The Managing Director, Bihar Industrial Area Development Authority (BIADA), Udyog Bhawan, Gandhi Maidan, Patna 800004.
10. The District Magistrate, Muzaffarpur District, Bihar.
11. The Additional Collector (Disaster), Muzaffarpur, Bihar.
12. The Sub Divisional Magistrate, East Muzaffarpur, Bihar,
13. The Senior Officer-In-Charge, District General Branch - cum- Additional Collector, District Muzaffarpur, Bihar.
14. The Sub Divisional Officer, East Muzaffarpur, Bihar.
15. The Circle Officer, Mushari, Muzaffarpur District, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhisekh Pandey, Advocate
For the Respondent nos.	:	Mr. Shivendra Kishore, Sr. Advocate
3 to 6	:	
For Biada	:	Mr. Abu Nasar, Advocate
For the State	:	Mr. Vikash Kumar, SC-11



CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 05-09-2024 Heard Mr. Abhisekh Pandey, learned counsel for the petitioner, Mr. Shivendra Kishore, learned Senior Counsel for respondent nos. 3 to 6, Mr. Abu Nasar, learned counsel for respondent nos. 8 and 9 (BIADA) and learned AC to SC-11 for the State respondent.

2. The petitioner has prayed for the following reliefs:

(i) for quashing the order contained in Memo No. 493 dated 25.02.2019 issued by Respondent No. 13, the Senior Officer-In-Charge, District General Branch -cum- Additional Collector, District Muzaffarpur, Bihar under the direction of the Office Order No. B-19004/WQM-II/CPCB/2012-19 dated 06.02.2019 issued by Chairman Central Pollution Control Board, under the Ministry of Environment, Forest & Climate Change, Govt. of India within the provision under Section 5 of The Environment (Protection)



Act, 1986 whereby and where under the unit was directed to close down all its operation and not to start;

(ii) for setting aside order bearing memo No. 526 dated 26/02/2019 passed by the Respondent No. 12, the Sub Divisional Magistrate, East Muzaffarpur, Bihar whereby and where under direction was issued to seal the part of the industrial premises of the petitioner without making inventory for the alleged violation the norms laid down for control of pollution and the operation of the unit thus poses serious threat to the environment including ground water quality and water quality river Ganga since the reason recorded therein is non-est, not sustainable that too being perverse and in complete violation of the principles of natural justice



and against all canons of justice;

*(iii) for declaration and to hold that the aforesaid impugned Office Order No. Fl. No. B-751(394)/Tannery/WQMII/CPCB/2017-18 3766 dated 02.06.2017 issued by Chairman Central Pollution Control Board, under the Ministry of Environment, Forest & Climate Change, Govt. of India within the provision under Section 5 of the Environment (Protection) Act, 1986 is illegal and in contravention to the settled principles of law i.e. doctrine of legitimate expectation **Food Corporation of India v. Kamdhenu Cattle Feed Industries** ((1993) 1. S.C.C. 71), that the duty to act fairly on part of public authorities, entitles every citizen to have legitimate expectation to be treated in a fair manner and it is imperative to give*



due importance to such an expectation in order to satisfy the requirement of non-arbitrariness in state action or otherwise it may amount to abuse of power. The Court further made a remarkable point that such a reasonable or legitimate expectation may not be a directly enforceable legal right but failure in taking it into account may deem a decision arbitrary and as such liable to be quashed on this ground itself;

(iv) for a direction upon the Respondent No. 2 to 6 to approach Chairman Central Pollution Control Board, under the Ministry of Environment, Forest & Climate Change, Govt. of India within the provision under Section 3, 20 & 23 of The Environment (Protection) Act, 1986 to furnish the documents



regarding to unseal the industrial premises to continue the industrialization;

(v) for a direction upon the Respondent No. 7 to 9 to grant permission regarding amendment in product change as petitioner wants to continue with Corrugated Boxes & Jute Bag Stitching under the office order contained in Memo No. 1302/D dated 08.04.2022 issued by Respondent No.9 Managing Director, Bihar Industrial Area Development Authority (BIADA);

(vi) for any other relief or reliefs for which the petitioner be found entitled in the eye of law.

3. It is the case of the petitioner that the Central Pollution Control Board, Government of India (henceforth for short 'the Board.) issued letter dated 06.02.2019 (Annexure-P/8 to the writ petition) addressed to the District Magistrate, Muzaffarpur in which it gave direction under section 5 of the



Environment (Protection) Act, 1986 (henceforth for short 'the Act') to close four Units of Muzaffarpur which is not following the standard for discharge of environmental pollution from the industries and common effluent treatment plants under 'the Act'. The name of the petitioner establishment was in the bottom of the said list.

4. Accordingly, the District Magistrate, Muzaffarpur issued the letter no. 493 dated 25.02.2019 under the signature of the Senior Incharge Officer in the District Collectorate, Muzaffarpur for sealing the Units (Annexure-P/9 to the writ petition).

5. It is the case of the petitioner that it was sealed subsequently on the very next day on 26.02.2019.

6. Aggrieved with that, the present writ petition.

7. Learned counsel submits that 'the Board' without looking into the matter in a routine manner, passed the order which followed the consequential order by the District Magistrate, Muzaffarpur, thus, putting the firm in loss.

8. Mr. Shivendra Kishore, learned Senior Counsel has made three folds submissions:

(i) section 5-A of the 1986 Act clearly says that any person aggrieved by the



direction issued by the Central Agency, there is forum of appeal before the National Green Tribunal which the petitioner did not avail;

(ii) the orders were passed on 06.02.2019 (by 'the Board') and 25.02.2019 (by the District Magistrate, Muzaffarpur) which followed the sealing on 26.02.2019. However, almost five years later, the writ petition has been filed and the same is fit to be dismissed on the ground of delay and laches;

(iii) the petitioner is aggrieved by the order passed by 'the Board' but the same is not in the list of the respondents.

8. Faced with the situation where even 'the Board' has not been made party respondent, learned counsel for the petitioner submits that he may be granted liberty to approach appropriate authority for redressal of his grievance as closer of the Units has resulted into economic loss.



9. Granting said liberty and without making any comment on the merit of the case, the writ petition stands disposed of.

(Rajiv Roy, J)

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