

06.03.2025
Item No.11
gd/ssd

WPA(P)/46/2025
BIPLOB MONDAL AND ANR.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Sugata Shankar Roy,
Mr. Saurav Mitra,
Mr. Debasish Sur,
Mr. Goutam Sardar,
Mr. Goutam Malik,
Mr. Robert D Rozario,
Mr. Raj Sharma
..for the Petitioners.

Mr. Samrat Sen,
Ms. Manali Ali
..for the State.

Mr. Arjun Roy Mukherjee
..for WBPCB.

Mr. Laxminath Bhattacharya,
Mr. Rajib Kumar Acharyya,
Mr. Banshi Badan Maity
..for the Respondent No.9.

1. This writ petition has been filed as a public interest litigation pointing out that the private respondents are operating an iron chain manufacturing unit coupled with a galvanizing factory in the site in question without any licence, approval etc.

2. It appears that initially the representations given by the petitioners did not give response but, however, subsequently the Pollution Control Board has taken action pursuant to the complaint dated 3.12.2024.

3. The complaint was submitted by Mr. Krishnapada Ghosh and Others and they were represented through their advocate.

4. Inspection was done by the Pollution Control Board on 26.12.2024 and the findings of such inspection were recorded.

5. Thereafter the complainant as well as the Proprietor of the respondent/Unit, namely, Mr. Sushil Kumar Ghosh was given an opportunity of personal hearing and Mr. Ghosh had appeared for the personal hearing and the Pollution Control Board has passed an order dated 11.2.2025 directing the respondent, namely, M/s. S.G. Enterprise shall not operate their activities without obtaining consent to establish/consent to operate under “red category” of the State Board beyond 10th March, 2025.

6. The learned advocate appearing for the private respondents submitted that they have obtained requisite permissions and approvals and has handed over a set of documents.

7. On perusal of the same, we find that the consent to establish was obtained only on 6.2.2025 which is the date on which the writ petition was filed before this court.

8. Therefore, unless and until the consent to operate is obtained, the question of permitting the private respondents from operating the unit does not

arise. In other words, the consent to establish does not give any right to the private respondents to operate the unit.

9. The petitioners would contend that the unit was running elsewhere and was shifted to the present location which is in the midst of the agricultural land and the unit is discharging effluent without request, as a result of which, the neighbouring agricultural lands have become acidic and unfit for agricultural activities.

10. The learned advocate appearing for the private respondents, on instructions, submitted that they have stopped the operation.

11. The fact that the unit was operating earlier itself shows that illegality has been committed.

12. Therefore, the authority shall ensure that the private respondents do not carry on any manufacturing activities and if there is any suspicion that the private respondents may defy the law, then the authorities are entitled to seal the premises.

13. However, this will not prevent the private respondents from approaching the Pollution Control Board with an application for consent to operate which should be considered strictly in accordance with the statutory provisions, bearing in mind the industry is a red category industry. If the Pollution Control Board is of the opinion that the private respondents may surreptitiously commence operations, they are at

liberty to address the WBSEDCL to temporarily disconnect the electricity supply to the private respondents' unit. After the application for consent to operate is submitted, the same should be scrutinized thoroughly and the authority of the Pollution Control Board shall also make a site visit and also record opinion of the public in the area and thereafter proceed to take decision in accordance with law.

14. In order to effectively conduct the inspection, the District Magistrate, North 24-Parganas is directed to nominate one officer who shall coordinate with the officials of the Pollution Control Board to facilitate the inspection.

15. The Pollution Control Board shall also assess the damage which is alleged to have been caused to the neighbouring agricultural lands and if it is found that damages have been caused, necessary action in that regard shall be taken by the Pollution Control Board after notice to the private respondents which shall include assessment of damages.

16. The learned advocate for the petitioners submits that the petitioners have been threatened by the private respondents,

17. If that be so, the petitioners are directed to lodge a complaint with the jurisdictional police who shall examine the nature of complaint assess the threat

perception and proceed to take action in accordance with law.

18. For the above reasons, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)