

172

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA

O.A. No. 61/2015/EZ

JOYDEEP MUKHERJEE

VS

POLLUTION CONTROL BOARD,  
STATE OF BIHAR & ANR.

CORAM: Hon'ble Mr. Justice S.P. Wangdi, Judicial Member  
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: Applicant : Mr. Joydeep Mukherjee, Advocate  
Ms. Leena Mukherjee, Advocate  
Respondent No. 1 : Mr. Arjun Ray Mukherjee, Advocate  
Mr. Aveek Ray Mukherjee, Advocate.  
Respondent No. 2 : Mr. Binod Kumar Gupta, Advocate  
Ms. Aishwarya Rajyashree, Advocate  
Added Respondents No. 244 : Kumar Ravish, Advocate  
261, 266, 267

Date & Remarks	Orders of the Tribunal
Item No. 10 6 <sup>th</sup> May, 2016.	<p>Ld. Advocates appearing for the parties point out that certain errors have crept in in the order dated 01.04.2016 in respect of the cause title wherein in place of Bihar State PCB, it has been recorded as Assam State PCB. Even the original application has been wrongly mentioned as O.A. 63/2015/EZ when it ought to have been O.A. 61/2015/EZ.</p> <p>Upon perusal of the order it appears that the submission is correct and accordingly we direct the Registry to make necessary corrections.</p> <p>Mr. Arjun Ray Mukherjee, Id. Advocate appearing for the Bihar State PCB, submits that the reason why the affidavit was not filed in terms of the direction of this Tribunal by the Id. counsel appearing for them, has been given in the affidavit filed</p>

1171

today. He submits that the affidavit being faulty, could not be filed within the stipulated date and tendered unconditional apology for the lapses. For the ends of justice we accept the explanation.

The Member Secretary, Bihar State PCB is present before us in compliance of our order dated 01.04.2016. Upon our query, it is informed that in all 6186 brick kilns have been identified by them and, out of them, 5908 brick kilns have been granted consent to establish and of the 5908 brick kilns, only 2824 have been granted consent to operate. It is submitted that against those who are operating without consent to operate, which would be 3684, notices have been issued as required under law to show cause as to why appropriate action should not be taken. While noting the action being taken, we make it clear that the Bihar State PCB in proceeding with the matter, shall ensure that the procedures under the relevant statute are complied with and the principles of natural justice followed and, once the non-compliant persons are made compliant and apply for consent to operate, the State PCB shall consider their cases dis-passionately and dispose of their applications in accordance with law.

Mr. Kumar Ravish, Id. Advocate, appearing on behalf of added Respondents No.244, 261, 266 and 267, files vakalatnama on their behalf and submits that these respondents, having not obtained any consent to operate, fall within the category 'D' as decided in the brick kiln matters in respect of the West Bengal and, therefore, volunteer to pay compensation/penalty of Rs.1.5 lakhs as imposed upon such category.

We allow the added respondents to deposit the aforesaid amount with the Bihar State PCB. However, since this pertains to the State of Bihar we deem it essential to pass the following

order in respect of the categorization in the light of categorization already made in respect of Brick Kilns of West Bengal:-

1. Those brick kilns which, at one point of time, were operating with valid consents to operate but continued to operate even after expiry of its validity, shall fall under 'Category C' and liable to pay an environmental compensation of Rs.1.00 lakh to be deposited with the State Pollution Control Board.
2. Those brick kilns which were/are operating without any consent to operate from the very inception shall fall under 'D' and liable to pay an environmental compensation of Rs.1.5 lakhs to be deposited with the State Pollution Control Board.

All the added respondents against whom show cause notices have been issued by the Tribunal shall now approach the State Pollution Control Board with relevant documents and, the PCB, after proper verification of documents, shall direct payment of environmental compensations as per the above categorization granting them reasonable time for them to make such deposits.

The deposits shall be maintained in a separate account under a separate head which shall be utilised for the purpose of repair of the damages caused to the environment. It is also made clear that no fresh consent to operate shall be granted by the PCB to brick kiln operators in the absence of environmental clearance and consent to establish as required under law.

Mr. Arjun Ray Mukherjee, Id. counsel appearing on behalf of Bihar State PCB also files two affidavits viz., one on behalf of Mr. Susanta Choudhury and the other, further status report on

behalf of State PCB. Let those be taken on record.

Upon receipt of further status and action taken report by the State and PCB which we hereby direct them to submit further order shall be passed on the next date.

The presence of the Member Secretary stands dispensed with from the next date..

List on 07.07.2016.

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Justice S.P. Wangdi, JM

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Prof. (Dr.) P. C. Mishra, EM