

(2020) 02 PAT CK 0169

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 20498 Of 2019

Shambhu Sharan Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 04-02-2020

Acts Referred:

Air (Prevention And Control Of Pollution) Act, 1981 — Section 31
Constitution Of India, 1950 — Article 226

Citation : (2020) 02 PAT CK 0169

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Suraj Samdarshi, Jainandra Kr., Sanjeev Kumar, Rajeev, Shivendra Kishore

Final Decision : Disposed Of

Judgement

Heard Mr. Suraj Samdarshi, learned counsel for the petitioner and Mr. Sanjeev Kumar, learned counsel for the private respondent and Mr. Shivendra Kishore, learned Sr. counsel for the Bihar State Pollution Control Board (for brevity 'the Board').

Petitioner's counsel submits that he is aggrieved by the consent to operate the Cold Storage Unit granted under order dated 18.4.2019 by the Board.

The learned Sr. counsel, representing the Board, submits that the petitioner has remedy, by way of appeal, before the Member, Board of Revenue. The said submission has to be viewed in background of other submissions being advanced on behalf of the petitioner's counsel that the Cold Storage Unit was barred as being within the prohibited distance prescribed under the relevant law for the said purpose. The submission is that without proper physical verification and without any determination, regarding the proximity of the said Unit with the school in-question, the consent to operate has been granted by resorting to a misinterpretation of the provisions governing the prohibited distance of such Unit from the educational institutions, Hospitals and Courts.

These issues are issues of fact. The petitioner, as per the submissions of the learned Sr. counsel for the Board, has a remedy under Section 31 of the Air (Prevention and Control of Pollution) Act, 1981, before the Member, Board of Revenue.

In view of the adequate alternative statutory remedy available to the petitioner, wherein, all these issues of facts can be raised and properly examined. This Court does not deem it appropriate to exercise the jurisdiction under Article 226 of the Constitution of India. The petitioner would be at liberty to avail of the remedy in accordance with law.

Learned counsel for the petitioner submits that on account of the pendency of the instant proceedings, the appeal would now be delayed, as per provisions contained in the Act. This Court would observe that if appeal is filed within a period of four (04) weeks from today, the Member, Board of Revenue, shall proceed to consider the same, in accordance with law, without raising the issue of delay.

With the aforesaid observation/direction the writ application is disposed off.