

(2002) 02 PAT CK 0066
In the Patna High Court
Case No : CWJC No. 894 of 1997

Sitaram Chhaparia and Others	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 25-02-2002

Acts Referred:

Constitution of India, 1950 — Article 51A

Citation : AIR 2002 Patna 134 : (2002) 2 PLJR 654

Hon'ble Judges : Ravi S. Dhawan, C.J.; Shashank Kumar Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This petition was filed as a Public Interest Litigation by five persons residents of localities which are contiguous to each other namely Rajendra Nagar and Raj Kishore Complex, Kankerbagh. Of the five petitioners, one of them is a retired Engineer-in-Chief. Road Construction Department, a Chief Engineer, Bihar State Electricity Board and another a retired official of the Bihar State Finance Corporation and yet others are an advocate of the Patna High Court and a retired District and Sessions Judge.
2. The petitioners are aggrieved by an industrial unit which has been set up by one Messrs Kushal Tyre Udyog Private Limited, respondent No. 7, in Rajendra Nagar.
3. On facts there is no issue and accepted between the petitioners and the respondent alike. The respondent No. 7 i.e. the management of the industrial unit, as of date has not filed any counter affidavit. It has permitted the proceeding to go on and taken a ring side seat to watch what goes on in Court. Today, it is being explained to the Court by its counsel that this respondent has a counter affidavit ready, if permitted to file it could be filed, The question arises as why this respondent was watching this petition and evading the reply for the last 5 years.

4. On behalf of this respondent a statement is being made by its counsel, Mr. Amit Srivastava, on instructions, that the industrial unit will be shifting from its present location at Rajendra Nagar to another site. This in itself is an acknowledgment that the presence of an industry in a residential area is not an issue. The industry is a tyre retreading plant. The record is complete with details which have been filed along with the counter affidavit of the State respondent that this industry emits carbon dioxide gas and other obnoxious gases from its furnaces.

5. The fact that the industry proposes to shift by 30-4-2002 may be a temporary solution for the residents of the locality. But the fact is this industry has been functioning and polluting the environment of its present area since 1992. The residents of the locality have suffered.

6. In so far as the State respondents are concerned whether the department of Forest and Environment or the Bihar State Pollution Control Board or the Industries Department, Govt. of Bihar, all of them paid lip service to the obligations of the law which monitors environmental pollution; the Environmental Protection Act 1986 and the provisions of the Constitution of India which require strict vigil on matters of environment and ecology. There does not appear to any element of sensitiveness in dealing with the matters of environment more so on behalf of the State respondents, such impervious approach and attitude by State functionaries is anti-nature. The present case is one such example.

7. The contention on behalf of the petitioners is that he is facing prosecution proceedings though no one complained. This is incorrect and on this aspect the Court may observe that any person of the locality has a right to complain to authorities who are obliged to monitor environmental degradation and ecological imbalance. On record notices have been served on the respondents that the factory is discharging large volumes of carbon dioxide gas and other pollutants, and harm is being caused to the environment of the locality. The residents of the area where the industry situated also complain this is an example where muscle power of vested interests has made their presence felt regardless of the laws which obliged the State to control pollution and take steps for environmental protection.

8. Protecting the environment is now a fundamental duty under Article 51A of the Constitution of India.

9. The sooner the respondent No. 7 unwinds the industry the better it would be. The State respondents are obliged to ensure this.

Petition succeeds with costs.