
(2020) 10 JH CK 0036

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 5002 Of 2018

Sunil Kumar Roy

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 09-10-2020

Acts Referred:

Indian Penal Code, 1860 — Section 147, 149, 307, 321, 325, 342, 385, 386, 379, 448
Water (Prevention And Control Of Pollution) Act, 1974 — Section 25
Air (Prevention And Control Of Pollution) Act, 1981 — Section 21

Citation : (2020) 10 JH CK 0036

Hon'ble Judges : Dr. Ravi Ranjan, CJ; Sujit Narayan Prasad, J

Bench : Division Bench

Advocate : Prabhash Chandra Jha, L.C.N. Shahdeo, Richa Sanchita, Mahesh Tiwari

Final Decision : Dismissed

Judgement

Perused the report submitted by the concerned dated 11.09.2020. Let the same be placed before the Chief Justice on the administrative side.

With consent of the parties, hearing of this matter has been done through video conferencing. They have no complaint about any audio and visual quality.

We have heard learned counsel appearing for the writ petitioner as also the respondents including respondent No.4.

This writ petition in the form of "Public Interest Litigation" has been filed for the following relief: -

"For direction to enquire about the affairs of the respondent no.4 as air pollution has been occurred by the said industries which runs for manufacturing of coke by way of open oven which is injurious to the local people and it is against the norms of pollution."

Pursuant to the order dated 08.11.2019 by which notice was issued to

respondent No.4 by a Co-ordinate Bench of this Court, respondent No.4 has appeared and filed a counter affidavit. In the counter affidavit respondent No.4 has disclosed that the writ petitioner has tried to settle his personal score against respondent No.4 by misusing the forum of Public Interest Litigation inasmuch as, the respondent No.4 had already filed a criminal case against the writ petitioner Sunil Kumar Roy being Baghmara P.S. Case No.70 of 2007 which was registered on 03.04.2007 for an offence under Sections 147, 149, 448, 342, 321, 325, 307, 385, 386, 379 of the Indian Penal Code. It has been further stated that the writ petitioner remained in jail custody for more than six months in that case and thereafter he was subsequently released on bail. At this juncture, it has been informed by the learned counsel appearing for the writ petitioner that he was later on acquitted of the charges in the year 2017, i.e., prior to filing of the present writ petition. It has further been stated in the counter affidavit that again a complaint was made by respondent No.4 to the Superintendent of Police, Dhanbad on 28.04.2007 apprehending further violence from the side of the writ petitioner. A copy of the complaint has been brought on record as Annexure-C. On merit, it is stated that respondent No.4 purchased the Coke Plant running in the name & style of M/s. Jai Durga Coke Industries and after purchase, he obtained 'Consent to operate' from the competent authorities under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981. N.O.C. was also granted by the Pollution Control Board on 24.11.2000. On 20.03.2017 the Jharkhand State Pollution Control Board granted consent under Section 25 of the aforesaid Act and the plant was being maintained as per the directions of the Pollution Control Board. Such 'Consent to operate' and the N.O.C. have been brought on record as Annexure-D series. It has been further stated in the counter affidavit that N.O.C./Consent to operate granted by the competent authority is valid from 20.03.2017 to 31.03.2021 by the document which has been brought on record as Annexure-E. It has been alleged in paragraph 12 of the counter affidavit that the writ petitioner Sunil Kumar Roy, with the help of some villagers, had been taking steps for extorting money by threatening respondent No.4 and the matter was reported by respondent No.4 before the competent authority of the Police Department. It has been reiterated that no violation of any law has been done by respondent No.4. It has been lastly alleged that for putting further pressure upon respondent No.4 for extorting money, the present Public Interest Litigation has been filed.

Learned counsel appearing for the writ petitioner, in place of responding to the counter affidavit, has today proposed to withdraw this writ petition on instruction. However, this intention of withdrawal emboldens the stand taken by respondent No.4 that this Public Interest Litigation has been purposely filed for settling private score and not filed bona fide in the interest of public.

In the aforesaid facts and circumstances, we would not allow this Public Interest Litigation to be withdrawn rather we are dismissing it with a cost of Rs.10,000/- to be deposited by the writ petitioner before the High Court Legal Services

Committee within two months from today.

Writ Petition is dismissed accordingly.