

N. Bhaskar Vs. The State of Karnataka and Others

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Court : Karnataka

Decided On : Dec-02-2014

Judge : The Honourable Chief Justice Mr. D.H. Waghela & R.B. Budihal

Appeal No. : Writ Petition No. 55128 of 2014 (GM-POL)

Appellant : N. Bhaskar

Respondent : The State of Karnataka and Others

Advocate for Pet/Ap. : Mr. Ashok Haranahalli

Judgement :

(Prayer: This writ petition is filed under Articles 226 and 227 of the Constitution of India praying quash the order dtd. 2.8.2014 issued by the R-3 at Annex-A.)

D.H. Waghela, C.J.(Oral):

1. The petitioner has invoked Article 226 of the Constitution of India to call into question the order dated 02.08.2014 of the Karnataka State Pollution Control Board whereby the petitioner is directed to stop operation of their silk spinning unit and BESCOM is directed to stop power supply to the petitioner-industry.

2. Learned Senior Advocate Mr. Ashok Haranahalli appearing for the petitioner submitted that the impugned order is made without notice and without affording an opportunity of hearing to the petitioner. He also submitted that the petitioner has

never been given an opportunity to meet the standards of noise which might have been prescribed by the Pollution Control Board. He further submitted that there is no appellate authority available to hear and decide an appeal and therefore, the petitioner is constrained to approach this Court for necessary relief.

3. It was fairly conceded on behalf of the petitioner that petitioner had never applied for requisite consent under the provisions of The Air (Prevention and Control of Pollution) Act, 1981 and without valid consent of the State Pollution Control Board the industry could not be allowed to operate at the premises where it is located. There is also no dispute about the fact that the industry of the petitioner is located in residential area. It was also seen from the impugned order that it is an urgent and temporary measure, based on relevant material. As pointed out by learned counsel Mr. Gururaj Joshi, appearing for the State Pollution Control Board, if and when the petitioner applies for consent and if it is found to the satisfaction of the Board that the operation of the industry of the petitioner will not cause nuisance or air pollution beyond the prescribed limits the petitioner may be granted consent and other directions issued in the impugned order may be modified or reversed.

4. Therefore, with a view to making an appropriate application for consent of the Pollution Control Board and without prejudice to the rights of the petitioner, the petitioner has not pressed for any further order at this stage. It is only requested that the Pollution Control Board may be directed to entertain and decide the application proposed to be made by the petitioner for consent under the Act. Responding to that it is submitted by learned counsel Mr. Gururaj Joshi appearing for the Pollution Control Board that if and when requisite application in the prescribed form with the prescribed fees is submitted to the Pollution Control Board, it will be examined and entertained in accordance with law and decided as expeditiously as possible.

5. Recording the above statements, the petition is disposed as not surviving with no order as to cost.