

Vishal Kumar Vs. Union of India and Ors

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Court : Jharkhand

Decided On : Apr-27-2015

Appellant : Vishal Kumar

Respondent : Union of India and Ors

Advocate for Pet/Ap. : Mr. Tiwari

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P (PIL) No. 2663 OF 2011 WITH I.A No. 6161/2013 ---- Vishal Kumar son of Shri Muchkund Prasad, Secretary, Save Democracy Front (Registration No.IV-608), resident of Near Audrey House, Booty Road, PO Audrey House, PS Kotwali, District Ranchi, Jharkhand ... Petitioner Versus 1.Union of India through the Central Pollution Control Board under the Ministry of Environment & Forest Government of India having its office at Parivesh Bhawan, East Arjun Nagar, Delhi 110032 represented by its Senior Environment Engineer 2.Central Pollution Control Board under the Ministry of Environment & Forest Government of India having its office at Parivesh Bhawan, East Arjun Nagar, Delhi 110032 through its Chairman 3.Chairman,Central Pollution Control Board having his office at Parivesh Bhawan, East Arjun Nagar, Delhi 110032 4.Member Secretary Central Pollution Control Board having his office at Parivesh Bhawan, East Arjun Nagar, Delhi 110032 5.Jharkhand State Pollution Control Board having its office at T.A Building, H.E.C, Near Gol Chakkar, PO Dhurwa PS Dhurwa District Ranchi through its Chairman 6.Chairman, Jharkhand State Pollution Control Board having his office at T.A

Building, H.E.C, Near Gol Chakkar, PO Dhurwa PS Dhurwa District Ranchi
7.Member Secretary, having his office at T.A Building, H.E.C, Near Gol Chakkar,
PO Dhurwa PS Dhurwa District Ranchi 8.Environment Engineer, Jharkhand State
Pollution Control Board having his office at T.A Building, H.E.C, Near Gol Chakkar,
PO Dhurwa PS Dhurwa District Ranchi Respondents ---- CORAM: HON'BLE
MR.JUSTICE VIRENDER SINGH, CHIEF JUSTICE HON'BLE MR.JUSTICE
P.P.BHATT ---- For the Appellant/Petitioner : Mr.Mahesh Tiwary For the
Respondent-UOI : Mr.Rajiv Sinha, ASGI For the Respondent-JSPCB :
Mr.A.K.Pandey For the Respondent-CPCB : Mr.Manish Kumar For the Intervenor :
Mr.Sumeet Gadodia ----- Order No.25 Dated 27th April, 2015 Per Virender Singh,
CJ I.A No. 6161/2013 Since Mr.Tiwary, learned counsel for the petitioner, has not
raised any objection in allowing the instant application moved by M/s. 2 Maithon
Power Limited, for its impleadment as an intervenor, the same stands allowed, as
prayed for. I.A No. 6161/2013 stands disposed of. W.P (PIL) No. 2663/2011
Through the instant writ petition, petitioner seeks mandamus commanding the
respondents to look into the functioning of the Bee-hive Hard Coke Plants
established throughout the district of Dhanbad as they are polluting the air on
account of remission of smoke.

2. Order dated 2nd April, 2012 indicates that Central Pollution Control Board, in its
meeting dated 5th March, 2011, has declared Dhanbad area as polluted area and
in this regard Project Report and Action Plan were prepared, which were
forwarded to the Director, Ministry of Environment & Forest, Government of India.
It is how Jharkhand State Pollution Control Board (for short Pollution Control
Board) was directed to give list of companies, firms and units, which were creating
pollution by operating Bee-hive Hard Coke Plants, pursuant to which the Pollution
Control Board submitted its report informing the Court that orders for the closure of
certain units have already been passed in which one of them was M/s. Bharat
Coking Coal Ltd., who, after receiving the order of closure, moved this Court
through the medium of W.P.(C) No. 4944 of 2011 and got a favourable interim
direction. Court directed tagging of the said Writ Petition along with the instant
Public Interest Litigation.

3. It was also brought to the notice of the Court that M/s. Maithon Power Ltd., which is a power generating company, was highly polluting air as the fly ash discharged from its power plant had virtually 3 created a blanket, which had adversely affected the agriculture in the adjoining areas and were causing other problems as well. Pollution Control Board was directed to inspect M/s. Maithon Power Ltd., upon which a Committee was constituted, which contacted National Environmental Engineering Research Institute, Nagpur (NEERI). Upon inspecting the plant, NEERI has now submitted the report, which, according to Mr. Gadodia, appearing for M/s. Maithon Power Ltd. is favouring his client. We take note of the said report.

4. Mr. Tiwari, appearing for the petitioner, submitted that may be the report submitted by NEERI is somewhat favouring M/s. Maithon Power Ltd., but, the fact of the matter is that the fly ash being deposited in the abandoned mines by this Company is causing health hazard to the people living in the vicinity apart from affecting the air and water as the dumped fly ash has now started polluting the water also. He states that the latest report, as one finds from media, is that because of the pollution of the air and water, the cancer rate has increased manifold and this finding has been made by a reputed institute. Mr. Tiwary submitted that in terms of the Order dated 10th of July, 2014, the petitioner was directed to move a representation before the Ministry of Environment & Forest, Government of India within a stipulated period, upon which the officials of the said Ministry were supposed to make inspection of Dhanbad area to ascertain whether the abandoned mines were filled up with fly ash and that despite needful being done in this regard, no response has been filed by the concerned Ministry.

5. Confronted with this fact, Mr. Sinha states that he may be given some time to have the complete report by the concerned Ministry in terms of the order dated 10th of July, 2014 for which he seeks three 4 weeks time. Granted.

5. Mr. Pandey, appearing for the Pollution Control Board is also directed to file an affidavit of Regional Officer of State Pollution Control Board apprising the Court as to whether all the Companies/ Firms/Units, which are operational at present, have got the Clearance Certificate from the State Pollution Control Board and if any

such firm has still not applied or obtained the said certificate, any order of closure has been passed by the Pollution Control Board as this aspect requires to be taken very seriously, particularly, in the district of Dhanbad, which has been declared polluted by the Central Pollution Control Board itself. He is also granted three weeks time for the same.

7. List again on 22.06.2015.

8. Copy of this order shall be provided to learned counsel appearing for the parties under the signature and seal of the Court Master. (Virender Singh, C.J.) (P.P.Bhatt, J.) dey/LAK

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