

आदेश की क्रम सं०
और तारीख
1

आदेश और पदाधिकारी का हस्ताक्षर
2

आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख सहित
3

Board of Revenue, Bihar, Patna

Pollution Case No.- 53 of 2016

Dist.:-Patna

**PRESENT :- Sunil Kumar Singh, I.A.S.,
Chairman-Cum-Member.**

Vinod Kumar

Petitioner/ Appellant

Versus

Member Secretary,
Bihar State Pollution Control Board,
Patna

Respondent/ Opp. Party

Appearance :

For the Petitioner : Sri Parijat Surav, Advocate.

For the OP : Sri Manoj Kumar Sinha, Advocate.

ORDER

04.10.2018

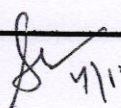
The appellant has filed the appeal against order contained in letter no. T-8140 dated 24.10.2016 passed by the Member Secretary, Bihar State Pollution Control Board, whereby the application of the appellant for no objection certificate has been rejected.

Principal Secretary, Industry Department present. Additional Secretary, Environment and Forest present. Ld. Lawyers for the appellant as well as the respondent present.

Heard Ld. lawyer for the appellant and the Ld. lawyer for respondent.

The appellant intended to operate a flex printing machine at the premises located at the basement of Shanti Vihar Apartment, behind R.B.I., Exhibition Road, Patna for which on 24.05.2016 he

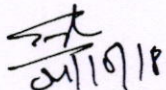
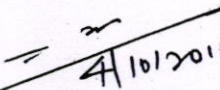
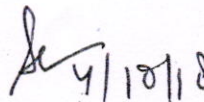
आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
	<p>has applied for NOC from the respondent. The application of the appellant was rejected by the respondent by his order contained in letter no. T-8140 dated 24.10.2016, which is impugned in the present appeal.</p> <p>Ld. lawyer for the appellant submits that the appellant is running the flex printing since year 2006 in the name and style of M/s M.S Adverting at his residence situated at Shanti Vihar Apartment, behind R.B.I., Exhibition Road, Patna. The appellant is using the machine and the ink which do not cause any type of pollution. On the application of the rival of the appellant, proposed direction and closure direction u/s. 31A of the Air (Prevention and Control of Pollution) Act, 1981 where issued closure direction on 06.05.2016 and 23.09.2016 respectively. Thereafter the appellant applied for NOC/ consent on 24.05.2016 before the respondent for operating his flex printing machine in his residential premises. However, his application has been rejected by order contained in letter no. T-8140 dated 24.10.2016 on surmises and conjectures only under the influence of his rival. The Ld. lawyer submits that the appellant has been harassed in the matter and without any basis his application for NOC/ Consent has been rejected. It is submission that flex printing does not create any air or water pollution and as such there was no reason for the respondent to reject his application. The Ld. lawyer for the appellant has also drawn our attention to the fact that at the instant of the respondent and the Sub Divisional Patna Sadar, an FIR has been lodged bearing Gandhi Maidan PS</p>	



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	<p>case no. 327 of 2017 in which appellant and his entire family member have been falsely implicated.</p> <p>On the other hand the Ld. Lawyer for the respondent submits that it is a case of Noise Pollution and not Air or Water Pollution. He submits that admittedly the appellant is running the flex printing press since year 2006 in residential area without obtaining NOC/ Consent from the Bihar State Pollution Control Board. On the complain by the habitants of Shanti Vihar Apartment, an inspection was carried on 21.01.2016 and report was prepared, which is annexed as Annexure 'E' to the counter affidavit. In the report it was reported that the printing press of the appellant is situated in residential area and the noise level was found above the prescribed limit. He submits that the noise limit for residential zone is 55dB(A) which has been prescribed under The Noise Pollution (Regulation and control) Rules, 2000, whereas the noise level around the complaint site during operation was found more than 55dB(A). He further submits that the Bihar State Pollution Control Board has issued notification no. 07 dated 23.09.2015, which annexed as Annexure 'C' to the Counter affidavit, laying down the guideline for establishment and operation of the printing press. The establishment and operation of printing press is prohibited within 25 meters from habitation, school, court or hospital. The Ld. lawyer therefore submits that the appellant cannot establish and operate his flex printing press in residential premises.</p> <p>We have heard the Ld. lawyers for the parties and appreciated their submissions.</p>	

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	<p>From the pleadings and submissions of the parties, it is a common fact that the premises where the flex printing press of the appellant was running is basement of residential area. Notification No. 07 dated 23.09.2015 which prescribes the guideline for establishment and operation of the printing press clearly lays down the following-</p> <p><i>"In pursuance of the implementation of the provision under section 17 and 25/26 of the water (prevention & Control of Pollution) Act 1974 and section 17 and 21 of the Ari (Prevention & Control of Pollution) Act 1981 the guidelines for the establishment & operation of Printing Press is hereby notified as follows:-</i></p> <ol style="list-style-type: none"> <i>1. The minimum distance of Industry/ Unit shall be 25 meter from Habitation, School, Court and Hospital.</i> <i>2. In case of commercial Area duly notified by local body, above distance criteria shall be applicable, if noise level report shall be within limit.</i> <i>3. The guidelines for the industry notified vide Board's notification no. 26, dated 08.11.2003 and amendment there is shall be applicable.</i> <p><i>This guideline shall come into effect immediately from date of this Notification."</i></p> <p>In view of the guidelines framed by the Bihar State Pollution Control Board, we cannot direct the respondent to grant NOC/ Consent to the appellant to establish and run flex printing unit in a residential area, more so for additional reason that under the</p>	

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	<p>prevalent Building Bye-laws, no residential premises can be utilized for commercial purposes. The Ld. lawyer for the appellant has not averred or stated that the appellant has been granted any permission for using the basement of Shanti Vihar Apartment for commercial use. In view of the same, we affirm the order contained in letter no. T-8140 dated 24.10.2016 passed by the Member Secretary, Bihar State Pollution Control Board.</p> <p>We dispose of this appeal with observation that if the appellant applies for NOC/ Consent before the respondent afresh after complying with the policies and guidelines of the Bihar State Pollution control Board, or if the appellant satisfies the respondent that the basement of Shanti Vihar Apartment has the approval for commercial use, the application of the appellant for NOC/ Consent shall be processed in accordance with law without being prejudice by the out come of this appeal.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end; margin-top: 20px;"> <div style="text-align: center;">  (Surendra Singh) Addl. Secretary Environment & Forest Department, Bihar. </div> <div style="text-align: center;">  (S. Siddharth) Pr. Secretary Industries Department, Bihar. </div> <div style="text-align: center;">  (Sunil Kumar Singh) Chairman-cum-Member Board of Revenue, Bihar. </div> </div>	