


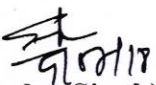
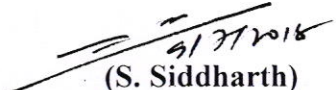
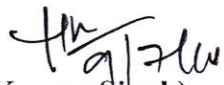
आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
09.07.2018	<p style="text-align: center;">Board of Revenue, Bihar, Patna Pollution Case No.- 23 of 2017 Dist.: - Patna</p> <p>PRESENT :- Sunil Kumar Singh, I.A.S., Chairman-Cum-Member.</p> <hr/> <p>Purushottam Kumar - Petitioner/ Appellant</p> <p style="text-align: center;">Versus</p> <p>The Bihar State Pollution Control Board - Respondent/ Opp. Party</p> <hr/> <p>Appearance : For the Petitioner : Sri Abhay Kumar Thakur, Advocate For the OP : Sri Parijat Saurav, Advocate</p> <hr/> <p style="text-align: center;"><u>ORDER</u></p> <p>Principal Secretary, Industry Department present. Additional Secretary, Environment and Forest present. Ld. Lawyer for respondent present. The appellant Purushottam Kumar has appeared in person.</p> <p>Pursuant to order dated 02.07.2018, the Ld. Lawyer for the respondent has produced before us the inspection report dated 06.07.2018 of the inspection carried out by the officials of Bihar State Pollution Control Board. After inspecting the original copy of the inspection report, the original copy has been returned to the Ld. Lawyer for the respondent and Photo stat copy is kept on record. The Ld. Lawyer for respondent has also produced the policy decision of the Ministry of Environment, Forest and Climate Change, Govt. of India dated- 05.03.2016 regarding categorisation of industries based on pollution index for the purpose of grant of consent by the State Pollution Board. A copy of the inspection report and the policy decision has been supplied to the appellant who has appeared in person.</p>	



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	<p>We have perused the record of the case, inspection report dated 02.07.2018 and the policy decision dated 05.03.2018 of the Ministry of Environment, Forest and Climate Change, Govt. of India. It will be evident from inspection report dated 02.07.2018, the appellant Purushottam Kumar was present during the inspection. Today during the hearing of this appeal, the appellant has not raised any objection to the inspection report.</p> <p>The present appeal has been filed by the appellant against the action of the respondent in rejecting the consent / NoC to the Corn Flakes unit of the appellant.</p> <p>The appellant has filed an application praying for condoning the delay in filing the appeal. The Ld. Lawyer for the respondent has objected by saying that the appeal has been filed after the limitation period. In view of the Judgment dated 17.05.2017 passed in LPA No. 436 of 2017 by the Hon'ble Patna High Court and the fact that the appellant has moved Hon'ble Patna High Court before filing of this appeal, we condone the delay in filing of the appeal and shall decide the appeal on merits.</p> <p>The facts in nutshell relevant for this appeal is that upon inspection on 01.12.2013 for the purposes of grant/refusal of consent/ NoC, It was found that the corn flakes unit of the appellant is situated in populated area. As such on 23.05.2014, the respondent has issued show cause notice to the appellant before refusal/ revocation of application of the appellant for consent to establish dated 08.05.2013 on the reason that "<i>Because your unit is situated nearby habitation and a public complaint has been received to the Board regarding air pollution problem.</i>" Thereafter the refusal order has been passed vide T-9087, dated 22.08.2014, which is under challenge.</p> <p>The grounds of appeal of the appellant is that no opportunity of hearing was granted to the appellant before passing the refusal order. The appellant has also contended that his unit being a</p>	

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	<p>micro/mini industrial unit, the notification no. 26 dated-08.11.2003 of the Bihar State Pollution Control Board will not apply.</p> <p>On the other hand Ld. Lawyer for the respondent has submitted that notification no. 26 dated-08.11.2003 of the Bihar State Pollution Control Board will cover all industrial unit. As the corn flakes unit of the appellant is not confirming to the siting criteria as per notification no. 26, after proper inspection, the consent/ NoC was refused. As per notification no. 26 the site of any food processing unit must be at a distance of 200 meters away from habitation of minimum 200 people.</p> <p>On 02.07.2018, the Ld. Lawyer for the appellant has disputed the inspection report dated 01.12.2013 (Annexure-C to the counter affidavit) and has also submitted that notification no. 26 will not apply to mini/micro unit of the appellant. In such situation, on 02.07.2018, we have issued the following directions:-</p> <p><i>"Upon Consideration of the arguments of both the sides, we are of the view that it will be appropriate and we accordingly do so and direct the Chairman/ Member Secretary of the Bihar State Pollution control Board to get a fresh inspection of the site of the unit of the appellant by next date by an officer/team of officers different from the one who have inspected the site of the unit on 01.12.2013 and submit the fresh inspection report positively by the next date before us. In the inspection report, it should be clarified as to whether the unit of the appellant is a micro or mini or small or large scale unit and the habitation around the unit.</i></p> <p><i>The Bihar State Pollution control Board shall also reply regarding the yardsticks of classification of industrial units into micro, mini, small or large or other classification as may be for the purposes of grant of consent/ NOC and whether notification no. 26 dated 08.11.2003 will apply to even micro or mini scale units also and whether the micro or mini scale units are required to adhere to terms of notification no. 26 dated 08.11.2003 in obtaining consent/ NOC from the Bihar State Pollution Control Board."</i></p> <p>The Ld. lawyer for the respondent has filed inspection report dated 02.07.2018 and the policy decision dated 05.03.2018 of the</p>	

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	<p>Ministry of Environment, Forest and Climate Change, Govt. of India in compliance of our order dated 02.07.2018.</p> <p>It will be evident from inspection report dated 02.07.2018, the appellant Purushottam Kumar was present during the inspection. Today during the hearing of this appeal, the appellant has not raised any objection to the inspection report.</p> <p>It is evident from the inspection report dated 06.07.2018, that the site of Corn Flakes unit of the appellant is situated in populated area. It is stated in the report that the population of village Alampur (where the unit of the appellant is situated) is more than 2000. The population is more than 200 within 200 meters towards East and South direction of the unit. The category of the unit of the appellant is orange (O-27) and the unit cannot function without obtaining consent/NoC from the respondent. It is also stated in the report that the laws/ regulations of the respondent is equally applicable to mini/micro units.</p> <p>This report dated 06.07.2018 is prepared on the basis of the inspection carried on the same date by the officials of the respondent in the presence of the appellant. Even today during the course of hearing, the appellant has not raised any objection to the inspection report dated 06.07.2018.</p> <p>As per the categorisation of the industries, as issued by the Ministry of Environment, Forest and Climate Change dated-05.03.2016, we find that the "Food and food processing industries" is listed at Sl. No. 27 in the list of orange category of industries, for which consent/ NoC is required from the State pollution Board before its commencement. The Corn Flakes unit of the appellant being a food processing industry will be an orange category industry. As such the unit of the appellant has to comply with the laws of the State Pollution Control Board. Notification no. 26 dated 08.11.2003, annexed as annexure-A to the Counter Affidavit, lays down the siting criteria of the industries. According to Paragraph-3(iii) and Paragraph 4 and Annexure V to the notification no. 26,</p>	

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	<p>the site distance of food processing unit should be minimum 200 meters away from the habitation of minimum 200 persons.</p> <p>We find that the Corn Flakes unit of the appellant has failed to comply with the siting criteria of the respondent as per notification no. 26 dated 08.11.2003 and therefore in our view the respondent was justified in rejecting the consent/NoC to the Corn Flakes unit of the appellant.</p> <p>This appeal is dismissed.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <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>	