

BEFORE
HON'BLE THE CHIEF JUSTICE MR. AJIT SINGH
HON'BLE MR. JUSTICE MANOJIT BHUYAN

12.12.2017

(Ajit Singh, C.J.)

Mr.M Saikia, learned counsel for the petitioners.

Mr.PJ Phukan, learned Standing Counsel for Pollution Control Board, Assam, Dr.B Ahmed, learned Standing Counsel for Industries Department, Mr. R Dhar, learned Additional Senior Government Advocate, Assam, assisted by Ms.K Phukan, learned Junior Government Advocate for Respondent Nos.1, 2, 4, 5, 8 & 9 and Mr.N Haque, learned counsel for RespondentNo.10.

This Public Interest Litigation has been filed by the petitioners who are the residents of three villages namely Baihata, Jalimura and Niz-mandartala under Kamrup (Rural) district, alleging inter-alia that M/S Ashoka Kraft Paper Mills (Respondent no.13) situated at Baihata under the district of Kamrup(Rural) which is involved in manufacturing of pulp and paper, has been causing serious threats to the environment of the locality causing various health hazards to the residents of the villages situated in its proximity. The said industry started production from 01.11.2014. It has been alleged that the 'consent to establish' was obtained fraudulently and the industry came into existence without obtaining prior-environmental clearance as required under the law. According to the petitioners, the said industry has polluted the agriculture lands situated backside of the industry due to drainage of untreated toxic waters and it has caused unbearable noise pollution too. Due to contamination of the agricultural lands, the farmers have been suffering for loss of harvests and the awful odor of the chemicals used and consumed in the said industry has made the lives of the residents miserable. Besides, during rainy season the untreated toxic water flows to the nearby stream called 'Khandajan' which was actually dug to cater the irrigation needs of poor farmers and the polluted water also gets mixed with river 'Kalajal' affecting the water bodies too.

2. It is alleged that the industry was set up with gross violation of the Environmental Impact Assessment (EIA) notification dated 14.09.2006 and the Pollution Control Board, Assam has remained a mute spectator to all types of pollution caused by the said industry. Hence it has been prayed that direction may be issued to close down that industry completely and restore the agricultural lands of the villages concerned with grant of appropriate compensation to the effected farmers.

3. Respondent No.6 (Pollution Control Board, Assam) has stated in its affidavit –in-opposition that show cause notice was issued on 20.06.2016 to the said industry regarding allegations on discharge of effluent outside the industry and it was replied that it is a zero discharge unit since it reuses the treated water. So far the allegations regarding Environment Clearance is concerned, it has been stated that the same is not required in case of pulp and paper industry which is based on waste paper and the ‘consent to operate’ was obtained by the industry from the Pollution Control Board, Assam, following due procedure of law. It has also been stated that the analysis report of Stake Emission Monitoring and Ambient Air Quality Monitoring Report shows that the discharges of the industry are under permissible limits. Besides, the ambient noise level is also under permissible limits and release of treated waste water, emission to the atmosphere, ambient air quality near the office building etc. are also under permissible limits.

4. Respondent No.8 (Deputy Commissioner, Kamrup, Rural) has stated in his affidavit-in-opposition that the lands allotted to the said industry were converted to industrial class from agricultural class vide letter dated 29.05.2014 issued by the Department of Revenue and Disaster Management, Government of Assam, and as per the reply submitted by the said industry to the Circle Officer, Kamalpur Revenue Circle, regarding release of toxic water to the river, it is denied that the industry has been releasing waste water into the ‘Kalajal’ river.

5. We have heard learned counsel for the parties and also perused the records. During argument, learned counsel for the petitioners has submitted that since the industry has been running for quite some time by now and has engaged local unemployed youths, the closure of the same would cause hardship

to their families and as such he would not like to insist on the prayer of closure of the industry at this stage. However, considering the pollution caused by that industry may be controlled by the Pollution Control Board, Assam. We are also of the view that closure of the industry would cause many persons jobless and their families shall suffer hardship. Besides, as the industry was set up to boost the industrial sector of the region vis-à-vis economy of the state and was established without any glaring illegality, it would not be just and proper to direct for a complete shut-down of the industry.

6. On the other hand, the affidavit filed by the Pollution Control Board, Assam, shows that there is no alarming scenario created by the industry causing threat to the environment. If it is noticed and/or complained so, the Pollution Control Board, Assam, shall always be in a position to take appropriate action in this regard. And the petitioners will always be at liberty to approach the Pollution Control Board, Assam, if any violation of the pollution norms committed by the said industry is noticed and in the event of filing any such representation/complaint, Pollution Control Board, Assam, shall deal with the matter in accordance with law.

7. With the abovementioned observations, this Public Interest Litigation is accordingly disposed of. No costs.

JUDGE

CHIEF JUSTICE

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