

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

Original Application No. 42/2014/EZ

Joydeep Mukherjee

Vs

West Bengal Pollution Control Board & Ors.

CORAM: Hon'ble Mr. Justice Pratap Kumar Ray, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: Applicant : None
Respondent No. 1 : Ms. Arpita Chowdhury, Advocate
Respondent Nos. 2 to 8 : Mr. Bikas Kar Gupta, Advocate
Added Respondent : Mrs. Debanjana Ray Chaudhuri, Advocate

Date & Remarks	Orders of the Tribunal																			
Item No. 16 15 th October, 2015.	<p>Heard the Id. advocates for the respective parties. Ms. Raychaudhuri, Id. adv. appearing for the added respondents submits that her clients have already filed reply in the form of affidavit to the show cause issued by this Tribunal answering the point of payment of penalty and they are agreeable to pay the penalty amount as maybe decided.</p> <p>We have gone through the records. We find that affidavits of the following added respondents are listed before us.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Respondent No.</th> <th style="text-align: center;">Name of Brick Field</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">235</td> <td style="text-align: center;">Insaf Brick Works</td> </tr> <tr> <td style="text-align: center;">267</td> <td style="text-align: center;">Gouri Bricks</td> </tr> <tr> <td style="text-align: center;">276</td> <td style="text-align: center;">Ma Tara Brick Works (Prativa)</td> </tr> <tr> <td style="text-align: center;">277</td> <td style="text-align: center;">Hirak Bricks</td> </tr> <tr> <td style="text-align: center;">282</td> <td style="text-align: center;">Ranima Brick Works</td> </tr> <tr> <td style="text-align: center;">297</td> <td style="text-align: center;">M/S New Bishnu Brick Works</td> </tr> <tr> <td style="text-align: center;">298</td> <td style="text-align: center;">M/S Jayma Brick Works</td> </tr> <tr> <td style="text-align: center;">299</td> <td style="text-align: center;">M/S Radhu Brick Works</td> </tr> </tbody> </table>		Respondent No.	Name of Brick Field	235	Insaf Brick Works	267	Gouri Bricks	276	Ma Tara Brick Works (Prativa)	277	Hirak Bricks	282	Ranima Brick Works	297	M/S New Bishnu Brick Works	298	M/S Jayma Brick Works	299	M/S Radhu Brick Works
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304	M/S Good Brick Works
307	M/S Honda Bricks
308	M/S Bara Brick Works
317	M/S Golden Brick Works
320	M/S New Bengal Brick Works
321	M/S Deep Brick Works
333	M/S Shree Krishna Brick Industries
336	M/S Bargavima Brick Works
337	M/S Swarnalata Brick Works
341	M/S New Puspa Brick Works
346	M/S Lakshi Janardhan Brick Works

On consideration of the affidavits filed by these respondents, it appears that except respondent No. 277 (Hirak Bricks) all other brick fields have never obtained consent to establish and consent to operate from the Pollution Control Board and have been operating their brick fields illegally causing damage to the environment and also contributing to air and water pollution to the surrounding areas. Thus, applying 'polluter pay' principle and having regard to judgement of the Apex Court passed in the case of **Natural Resources Policy (18) –vs- UOI & Ors (18)** reported in 2005 (13) SCC 184 (page 30), they are liable to pay penalty/compensation. On considering the documents annexed, we quantify Rs. 1.5 lakh as penalty for causing environmental degradation which is to be deposited to the PCB within a month. The amount will be utilised for development of the concerned locality.

So far as respondent No.277 is concerned, it appears that it had earlier obtained consent to establish and consent to operate from PCB for some time but on expiry of the same it was never renewed and owner continued to operate the business illegally thereby causing breach of environmental law and polluting the area.

Taking note of this fact, we are of the view that for this respondent a lesser amount i.e. Rs. 1 lakh will be sufficient to be imposed as

penalty apply aforesaid principle which is to be paid to the PCB within a month.

This penalty is imposed upon finding the respondents guilty of breach of environmental law and for degrading the environment of the locality for their action for operating the brick field without obtaining consent from the Board. The respondents have also not furnished their income statement or economic condition. However since they are agreeable to pay the penalty, we are passing the order of penalty as we have done in other similar cases also.

The PCB or its delegatee will consider their applications for renewal/ fresh consent to establish and/or consent to operate in accordance with law, particularly, keeping in view the Govt. of West Bengal circular Memo No. 1250 dated 29.5.2015 subject to payment of penalty as directed above.

Matter is fixed on 2.11.2015.

Justice Pratap Kumar Ray, JM

Prof. (Dr.) P. C. Mishra, EM