

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

Original Application No. 02/2015/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 : Mr. Joydeep Mukherjee, Advocate in person
Respondent No. 1 : Mr. Sibjyoti Chakraborty, Advocate
Respondent Nos. 2 to 6 : Mr. Bikas Kargupta, Advocate
Added Respondents : Mr. Adish Aggarwala, Sr. Advocate
Ms. Debanjana Ray Chaudhuri, Advocate

Date & Remarks	Orders of the Tribunal				
<p>Item No. 19 8th October, 2015.</p>	<p>Heard the Id. Advocates appearing for the respective parties in this application. On scrutiny of the affidavits filed by respective added respondents, on the issue of imposition of Penalty for illegally operating their respective Brick Kilns without obtaining consent from Pollution Control Board thereby contributing Environmental Pollution and land degradation, it appears that there are two types of cases, viz.</p> <p>Category-I : Those brick fields who had earlier obtained consent to establish and consent to operate from the Pollution Control Board but on expiry of the term, they never renewed the consent to operate and running their unit illegally without any permission.</p> <p>Category-II: Those brick fields who never obtained consent to establish nor consent to operate from the PCB but running their unit illegally all along.</p> <p>The following brick fields fall under category –I i.e. those who obtained consent for some time but failed to renew the consent after expiry.</p> <table border="1" style="width: 100%; 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;">59</td> <td style="text-align: center;">LION</td> </tr> </tbody> </table>	Respondent No.	Name of Brick Field	59	LION
Respondent No.	Name of Brick Field				
59	LION				

The following brick fields fall under category II i.e. those who never obtained consent to establish or consent to operate.

Respondent No.	Name of Brick Field
170	SURYA
193	N-SUVA
194	SUVA (Malay Samiran Bera)
195	SUVA (Malay Samiran Bera)
196	MAITI
197	LION
200	SUVA
201	N-MAITI
202	SNPN
203	RADHA (Pijush Kanti Dhara)
204	RADHA (Pijush Kanti Dhara)
207	DEAR
208	FLORA
336	N. Super
337	Balaji
338	S. Kargil
339	M.N.B
340	MAA
341	Maa
509	Ma Saraswati
511	Lion/Maa Lakshi
513	New Maa Durga
531	Lion
543	Hira
544	JB & LB
546	SUN
547	ABF

It is pointed out by Mr. Aggarwala, Id. Adv. for the applicant that respondent No. 59 (LION) falling under category I, the brick field had initially applied for consent to operate on 5.1.12 after expiry of the consent to operate in December 2012 and again applied on 25.11.14 for renewal but the same was not disposed of and the application is still pending. As per statute, an application seeking consent to operate has to be disposed of within four months. Therefore, we direct the concerned DL & LRO to dispose of the application of the respondent No. 59 expeditiously.

However, having regard to the fact that the unit of respondent No. 59 was operating for about four years till the date of closure and the unit of the respondent No. 59 has no consent to operate during this period and the brick field was operating illegally, we are of the conscious view that the unit is also liable to pay minimum penalty of Rs. 50,000/- to be paid to PCB within a month from this date. The concerned DL & LRO will decide the application of respondent No. 59 in accordance with law keeping in view the Govt. of West Bengal Memo dt. 29.5.15 and subject to the payment of penalty as imposed by us.

So far as category II cases are concerned i.e. those brick fields who never obtained consent to establish or consent to operate from PCB, in our considered opinion, they are liable to pay penalty/compensation amount of Rs. 1.5 lakh which is to be deposited to the PCB within a month from this date.

While holding the above brick fields as illegal operators for breaching the provisions of Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981, the quantification of penalty amount has been decided.

We have quantified the amount on considering the affidavits wherein there is no mention about the income, expenditure and stock in hand, payment due etc. and economic status of the individual respondents.

The brick fields of the aforesaid respondents will continue to remain under closure. However, they will be at liberty to apply for consent to establish and/or consent to operate, as the case may be, from PCB which will be considered by the PCB or its delegatee in accordance with law subject to the guidelines as framed by Govt. of West Bengal vide Memo dt. 29.5.2015 provided the payment of penalty amount as directed above has been deposited. The PCB will inform the name of the respective respondents and penalty amount as deposited to the DL & LRO concerned for official records and for

processing the applications as to be filed for seeking consent to establish and/or consent to operate, as the case may be.

The PCB is further directed to keep the penalty amount received from respective respondents in a separate account and we will consider a scheme for utilisation of the amount for restoration and reclamation of the environment in the concerned area of the concerned district in due course of time.

The matter is fixed on 17.11.2015.

Justice Pratap Kumar Ray, JM

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

