

IN THE HIGH COURT AT CALCUTTA
APPELLATE SIDE

No. 3124 - G.

Dated, Calcutta, the

1st Dec. November, 2012.

From : Shri R. K. Bag,
Registrar General,
High Court, Calcutta.

- To :
1. The District Magistrate, Bankura
 2. The District Magistrate, Birbhum
 3. The District Magistrate, Burdwan
 4. The District Magistrate, Howrah
 5. The District Magistrate, Hooghly
 6. The District Magistrate, North 24 Parganas
 7. The District Magistrate, South 24 Parganas
 8. The District Magistrate, Murshidabad
 9. The District Magistrate, Dakshin Dinajpur
 10. The District Magistrate, Malda
 11. The District Magistrate, Purulia
 12. The District Magistrate, Nadia
 13. The District Magistrate, Purba Medinipur
 14. The District Magistrate, Paschim Medinipur
 15. The District Magistrate, Darjeeling
 16. The District Magistrate, Cooch Behar
 17. The District Magistrate, Jalpaiguri
 18. The District Magistrate, Uttar Dinajpur

Subject: Hon'ble Court's Judgement and order dated 14.09.2012 passed in:

- , W.P.6079 (W) OF 2012 WITH
- , W.P.16760 (W) OF 2011 WITH
- , W.P.24675 (W) OF 2010 WITH
- , W.P.3748 (W) OF 2011 WITH
- , W.P.9386 (W) OF 2011 WITH
- , W.P.7205 (W) OF 2011 WITH
- , W.P.24490 (W) OF 2010 WITH
- , W.P.7817 (W) OF 2011 WITH
- , W.P.17507 (W) OF 2011 WITH
- , W.P.14646 (W) OF 2011 WITH
- , W.P.9854 (W) OF 2011 WITH
- , W.P.21402 (W) OF 2011 WITH
- , W.P.21817 (W) OF 2011 WITH
- , W.P.6409 (W) OF 2011 WITH
- , W.P.23955 (W) OF 2010 WITH
- , W.P.22519 (W) OF 2010 WITH
- , W.P.24646 (W) OF 2010 WITH
- , M.A.T.97 OF 2012 + C.A.N.983 OF 2012
- WITH W.P.4004 (W) OF 2012 WITH
- W.P.457 (W) OF 2012 WITH
- W.P.4969 (W) OF 2012 WITH
- W.P.7270 (W) OF 2012 WITH
- , W.P.25624 (W) OF 2010

Sir,

I am directed to forward herewith the Judgement and order of the Hon'ble Division Bench of this Court, dated 14.09.2012, passed in the above noted cases for your information and taking necessary action as per the direction of the Hon'ble Court contained in the Judgement and Order referred to above.

Enclosure: As stated.

Yours faithfully,

Registrar General.

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, Orders or proceedings with signature
	14.09.2012 02 skc		<p>W.P. 6079 (W) of 2012 With W.P. 16760 (W) of 2011 With W.P. 24675 (W) of 2010 With W.P. 3748 (W) of 2011 With W.P. 9386 (W) of 2011 With W.P. 7205 (W) of 2011 With W.P. 24490 (W) of 2010 With W.P. 7817 (W) of 2011 With W.P. 17507 (W) of 2011 With W.P. 14646 (W) of 2011 With W.P. 9854 (W) of 2011 With W.P. 21402 (W) of 2011 With W.P. 21817 (W) of 2011 With W.P. 6409 (W) of 2011 With W.P. 23955 (W) of 2011 With W.P. 22519 (W) of 2010 With W.P. 24646 (W) of 2010 With M.A.T. 97 of 2012 + C.A.N. 983 of 2012 With W.P. 4004 (W) of 2012 With W.P. 457 (W) of 2012 With W.P. 4969 (W) of 2012 With W.P. 7270 (W) of 2012 With W.P. 25624 (W) of 2010</p> <p>Mr. Ramdulal Manna Mr. Sabyasachi Mondal Mr. Pradip Roy</p> <p>... for the petitioner in W.P. 6079 (W) of 2012 for respdt.no.7-8</p>

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			Mr. N.C. Behani ... for WBPCB
			Mr. Bhaskar Prasad Vaisya ... for U.O.I.
			Mr. Goutam Roy ... for the petitioner In W.P. 16760 (W) of 2011
			Mr. Kalimuddin Mondal ... for the State
			Mr. Pratik Dhar ... for respdt.no. 8,9 & 10
			Mr. Tarun Kumar Das
			Mr. Sunanda Sil ... for the petitioner In W.P. 24675 (W) of 2010
			Mr. Raja Ghosh ... for the petitioner In W.P. 3748 (W) of 2011
			Mr. Santanu Chatterjee ... for the petitioner In W.P. 9386 (W) of 2011
			Mr. Partha Pratim Roy ... for the petitioner In W.P. 7205 (W) of 2011
			Mrs. Tanuja Basak ... for the petitioner In W.P. 24490 (W) of 2010
			Mr. Sumitra Das ... for the petitioner In W.P. 7817 (W) of 2011
			Mr. Hiranmoy Bhattacharyya ... for the pvt. Respd.
			Mr. Biswaranjan Bhakar ... for the petitioner In W.P. 17507 (W) of 2011
			Mr. Amit Banerjee ... for the petitioner In W.P. 14646 (W) of 2011
			Mr. Asis Sanyal ... for the petitioner In W.P. 9854 (W) of 2011
			Mr. Robiul Islam ... for the petitioner In W.P. 21402 (W) of 2011
			Mr. Tapas Kr. Mazumder ... for the petitioner In W.P. 21817 (W) of 2011
			Mr. Deb Narayan Roy ... for the respondent no.12
			Mr. Shamim-ul-Bari ... for the petitioner In W.P.6409 (W) of 2011
			Mr. Amal Baran Chatterjee ... for respdt.nos.8 & 9
			Mr. Jakir Hossain ... for the petitioner In W.P. 22519 (W) of 2010
			Mr. Shyamal Sarkar ... for the petitioner In W.P. 24646 (W) of 2010
			Mr. Asok Kr. Chakraborti ... for pvt. Respd.

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			Mr. Anindya Bose ... for the appellants In M.A.T. 97 of 2012
			Mr. Amal Kumar Das ... for the State
			Mr. Biswaroop Bhattacharyya ... for the petitioner In W.P. 4004 (W) of 2012
			Mr. Asok Kr. Chakaborti ... for pvt. Respdnt.
			Mr. Madhusudan Sur ... for the petitioner In W.P. 457 (W) of 2012
			Mr. Kamlesh Jha ... for the petitioner In W.P. 4969 (W) of 2012
			Mr. Madhusudan Sur ... for the petitioner In W.P. 7270 (W) of 2012
			Mr. Sankar Sarkar ... for the petitioner In W.P. 25624 (W) of 2010
			Mr. Asok Kr. Chakaborty ... for pvt. Respdnt.
			<p>These groups of petitions by way of public interest litigation raised various issues pertaining to different establishments and conducting of the business of brick manufacturing through out the State of West Bengal.</p> <p>In order to deal with the issues raised in these petitions, we propose to constitute a Screening and Scrutiny Committee at the District Level to examine all the issues raised in these petitions and after hearing the respective parties, the Committee will be able to deal with the illegalities and irregularities in the conduct of such business to the detriment of environment. This will enable this court to effectively deal with the issues in public interest litigation.</p> <p>It has been brought to the notice of the Court that the West Bengal Pollution Control Board with the approval of the land & Land Reforms Department, Government of West Bengal, have vested the jurisdiction of exercising powers conferred under section 15 of the Air (Prevention and Control of Pollution) Act, 1981 and sub-section (3B) of section 12 of Water (Prevention and Control of Pollution) Act, 1974 and also delegated the powers and functions of the Board under section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and under</p>

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			<p>sections 21, 24, 25 and 26 of the Air (Prevention and Control of Pollution) Act, 1981 as amended from time to time, to the District Land & Land Reforms Officers and ex-officio Environment Officers of the West Bengal Pollution Control Board for the purpose of dealing with the matters relating to grant or refusal 'Consent to Establish' and 'Consent to Operate' to the Brick Manufacturing units.</p> <p>Further by a circular dated 28th January 2003 issued by the West Bengal Pollution Control Board (hereinafter referred to as the State Board), the State Board issued an order vide Memo No. 32.40/1(50)-13/WPB-E(X)/97 dated 05.02.2001 have delegated powers to the District Land and Land Reforms Officers within their jurisdictions to the concerned districts, namely, Hooghly, 24-Parganas (South), 24-Parganas (North), Nadia, Malda, Murshidabad and also other districts of the State of West Bengal and directed to impose conditions while issuing Consent to Establish (NOC) or Consent to Operate to the brick manufacturing units located within vicinity of 1.6 Km. of any mango orchard, not to operate their brick kilns from 'February to May' each year, and also to advise the Block Development Officers under their respective jurisdictions to act in accordance with this Circular.</p> <p>It is further to be noted that the State Board had also issued an Office Memorandum vide Memo No. 13/WPB-E(X)97/2005 (PT.III) which sets the guidelines for scrutinizing the applications made by the persons to seek permission from the concerned authorities and 'Consent to Operate' their existing brick fields.</p> <p>Mr. Baisya, learned counsel appearing for the Union of India, has placed before this Court a communication received from the Ministry of Environment & Forests to the Additional Solicitor General, vide dated 27.06.2012 where it has been clearly stated that the West Bengal State Pollution Control Board (WBSPCB) is the authority constituted under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 in the State of West Bengal. The powers and functions under the Air</p>

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			<p>(Prevention and Control of Pollution) Act, 1981 are entrusted upon the WBSPCB for the State of West Bengal. The provisions of the Air Act, 1981 are implemented in the State of West Bengal by the WBSPCB which is a statutory organization and functioning under the administrative control of Govt. of West Bengal. The said communication filed today be kept on record.</p> <p>On going through the Notifications and Office Memorandum, we are of the view that the <u>Screening and Scrutiny Committee will consist of District Land and Land Reforms Officer of the concerned Districts and also the Regional Officer of the West Bengal Pollution Control Board of the concerned Districts who shall examine all the issues raised in these group of writ petitions, as well as any complaint made to the authority. The Committee so constituted by this Court shall be competent to deal with complaints/grievances of citizens before they approaching this court and invoking its jurisdiction under Article 226 as a public interest litigation as regards the brick kilns to be established by the manufacturers of the brick field and also the existing brick fields.</u></p> <p>The Committee shall give an opportunity of hearing to all the concerned parties before taking <u>decision in this group of writ petitions and in case of any complaint against any person in this group of writ petitions who are going to be affected if any order is passed against the said person or persons, the Screening and Scrutiny Committee which we have constituted will look into the matter and after examining the same shall pass a reasoned order and the said decision shall also be communicated to the affected person or persons. The Committee will also have a right to impose costs on false, frivolous complaints and to proceed ex parte in case the party does not appear before it without seeking any adjournment for good and sufficient grounds and shall act as a quasi-judicial authority. In future all grievances and complaint relating to breach/violation of Environment Laws/ other statutory provisions by ^{persons/ legal entities in} anti-operation of brick kiln/fields shall be referred to the said Committee before such matter is brought before this</u></p>

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			<p>Court in a Public Interest Litigation or referred as a Public Interest Litigation by any authority or Court.</p> <p>The Committee shall also take necessary steps to implement its order or previous orders, if any, passed by the competent authority in the matter, such as the District Land and Land Reforms Officer or the Regional Officer of the West Bengal Pollution Control Board.</p> <p>For the said purpose, <u>all the State functionaries including police authorities shall render assistance to the Screening and Scrutiny Committee in implementing and executing the order of the Committee.</u> The State Government shall issue necessary notification constituting the Committee within a period six weeks from the date of passing this order.</p> <p>Needless to mention that this Court has not decided or taken any decisions on merits of the matters including the right of the writ petitioners in this group of writ petitions as well as the locus standi of the writ petitioners in agitating the issues and if any issues raised by any of the writ petitioners in this group, it will be open for the Committee to decide the issues of locus standi and maintainability of the grievance/complaint as all issues are kept open for scrutinizing by the Committee in larger public interest of safeguarding environment.</p> <p>With the above observations, the writ petition stands disposed of.</p> <p><u>Our judgment and order be circulated to all authorities, tribunals administrative and judicial in the State of West Bengal within the jurisdiction of High Court under Articles 226/227 of the Constitution of India.</u></p> <p>(J.N. PATEL, CHIEF JUSTICE.)</p> <p>(JOYMALYA BAGCHI, J.)</p>