



मध्यप्रदेश प्रदूषण नियंत्रण बोर्ड

पर्यावरण परिसर, ई-५, अरेय कालोनी, भोपाल

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क्रमांक

/लोसूअ/प्रनिबो/2018

भोपाल, दिनांक

प्रति,

क्षेत्रीय अधिकारी,
म०प्र० प्रदूषण नियंत्रण बोर्ड,
भोपाल/इन्दौर/धार/पीथमपर/उज्जैन/देवास/गुना/ग्वालियर
जबलपुर/सागर/कटनी/सतना/रीवा/शहडोल/सिंगरौली

विषय :- एमसीआरसी क्रमांक 22283/2016 मेसर्स मोहन कॉलरी यूजी माइन्स विरुद्ध बोर्ड।

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उपरोक्त विषयान्तर्गत मेसर्स मोहन कॉलरी यूजी माइन्स के विरुद्ध बोर्ड द्वारा दायर प्रकरण के विरुद्ध मान्० उच्च न्यायालय, जबलपुर में शासकीय सेवक होने के कारण प्रकरण दायर करने की अनुमति लिये जाने संबंधी तथ्यों को उठाते हुये एमसीआरसी क्रमांक 22283/2016 प्रस्तुत की गई थी। उक्त प्रकरण में मान्० न्यायालय द्वारा दिनांक 11/10/2017 को निर्णय पारित किया गया है -

“A. Environment Protection and Pollution Control- Water (Prevention and Control of Pollution) Act, 1974- Ss. 49, 47, 44, 25, 26 and 2 (k)- Quashing of complaint proceedings by High Court- Justifiable grounds- Matters to be considered at stage of issuing process- High Court quashing complaint on ground of inadequacy of materials on record though specific and detailed averments regarding commission of offence for violation of Ss. 25 and 26 made in complaint- Pollution Board (through its officers) filing complaint under Section 44 against Respondent 1 and other accused persons- Specific averments of continuous commission of offence, made- Specific role of each accused person in the day-to-day affairs and decision-making process, statedCopies of inspection reports and communications regarding non-compliance with statutory provisions/conditional consent of Pollution Board regarding discharge/treatment of effluent, producedThough Magistrate took cognizance of allegations, High Court quashed the complaint as against Respondent 1 (a Joint Managing Director of the Company) on main ground



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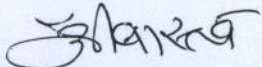
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that there was no material on record to show that Respondent 1 was, at the relevant time, in charge of and responsible to the Company for conduct of its business Held, in view of the specific averments in the complaint and Ss. 25, 26, 44 and 47, High Court was not correct in quashing the complaint relating to Respondent 1- Appellant Board was not even required to place all the materials on record at the threshold- At stage of issuing process, Magistrate is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused- Therefore, order of High Court quashing complaint set aside- Special Judicial Magistrate (Pollution) directed to proceed with complaint and dispose of the same in accordance with law Criminal Procedure Code, 1973-S. 482." 17. That being so, this petition is, therefore, sans merit and is dismissed. Petitioners may, if deem fit, raise the objections regarding the protection umbrella of Section 197 Cr.P.C before the learned trial Court.

कृपया सूचित हो।

सक्षम प्राधिकारी द्वारा आदेशित


(सुधीर श्रीवास्तव)
विधि अधिकारी

म०प्र० प्रदूषण नियंत्रण बोर्ड, भोपाल

भोपाल, दिनांक 01 FEB 2018

पृ०कमांक 188 /लोसूअ/प्रनिबो/2018

प्रतिलिपि :-

✓ आई०टी० प्रभारी, म०प्र० प्रदूषण नियंत्रण बोर्ड, भोपाल की ओर निर्णय की प्रति सहित सूचनार्थ। कृपया उक्त निर्णय को बोर्ड की वेबसाइट पर महत्वपूर्ण न्यायालयीन निर्णय अन्तर्गत आम सूचना हेतु अपलोड करें।