

Anmol Kumar v. State Of Bihar, 2023 PLRonline 432610 : (2023-1)209 PLRIJ 021 (Pat.) (SN)

Patna High Court

Hon'ble Judges : Sanjay Karol, CJ ; Partha Sarthy, J

Anmol Kumar v. State Of Bihar

Civil Writ Jurisdiction Case No. 4395 Of 2020

04.02.2023

Constitution Of India, 1950, Article 14, Article 21 - Air (Prevention and Control of Pollution) Act, 1981, Section 17, Section 19, Section 31A - Environment (Protection) Act, 1986 , Section 7

Environment law - Principles enunciated - Brick kiln -

(i) The precautionary principle and the polluter pays principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty.

(ii) Enterprises engaged in hazardous and inherently dangerous industry owe and absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of such activity being taken. Such enterprise is liable to compensate any harm irrespective of the reasonable care taken by it.

(iii) Economic development should not be allowed at the cost of ecology or by causing wide spread environmental destruction and at the same time such necessity of preservation should not hamper economic development unreasonably.

(iv) Courts when dealing with environment related issues must see that enforcement agencies, be it the State itself or any other authority, take steps for effective enforcement of laws.

(v) Certain resources like the air, the sea, waters and forest are of collective importance to the people as a whole and to make them subject of private ownership is wholly unjustified.

(vi) A duty is enjoined upon the State to protect the resources for the enjoyment of general public.

(vii) The polluter pays principle means that the producer of goods or other item should be responsible for the cost of preventing and dealing with any pollution that is result of such process of production. It does not mean that a polluter can

pollute and then simply pay for it.

(viii) The Stockholm declaration is the ‘Magna Carta’ of our environment. The objective of all laws on environment should be to create harmony between economic and social need on one hand and environmental consideration on the other since neither can be scarified at the altar of the others. The required standard to judge the risk of harm to the environment or to human health is to be decided in public interest, per the reasonable person test.

(ix) Health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution of India. Proper structures for environmental decision making form part of the guarantee under Article 14 of fair treatment and protection against arbitrary action.

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