

GAHC010221862023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5824/2023

M/S MANSURI COTTON INDUSTRY
THROUGH ITS PROPRIETOR MD. IKRAR ALAM MANSURI , AGED 35 YRS,
S/O- LATE NIZAMUDDIN MANSURI, VILLAGE- NO-2 MEDHICHUBURI,
P.O- RANGAGARA, DIST- SONITPUR, ASSAM, PIN-784110

VERSUS

THE POLLUTION CONTROL BOARD AND 4 ORS
REPRESENTED BY ITS CHAIRMAN, BAMUNIMAIDAM, GUWAHATI-781021,
ASSAM

2:THE MEMBER SECRETARY
POLLUTION CONTROL BOARD
ASSAM
BAMUNIMAIDAM
GUWAHATI-781021
ASSAM

3:THE REGIONAL EXECUTIVE ENGINEER
REGIONAL LABORATORY CUM OFFICE
TEZPUR POLLUTION CONTROL BOARD
ASSAM
NABAPUR
BYE LANE NO2
MAZGAON
TEZPUR
SONITPUR-784001

4:THE STATE OF ASSAM
REP. BY THE CHIEF SECRETARY
GOVT. OF ASSAM
DISPUR

GUWAHATI-06

5:THE DISTRICT COMMISSIONER
(PREVIOUSLY DEPUTY COMMISSIONER)

DIST- SONITPUR
TEZPUR
ASSAM

Advocate for the Petitioner : MR. P SARMAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

04.10.2023

Heard Mr. B. Chakravarty, learned counsel for the petitioner; Mr. S. Baruah, learned Standing Counsel, Pollution Control Board, Assam for the respondent nos. 1 – 3; and Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent nos. 4 & 5.

2. The petitioner was running a Waste Cloth Processing Industry in the name and style of 'Mansuri Cotton Industry' ['the Industry', for short] located in Dhekiajuli. According to the petitioner, he has obtained all the necessary permissions/licenses/no objection certificate, etc. from the competent authorities. But on 01.08.2023, the petitioner has been asked to stop operating the Industry on the premise that the petitioner was running the Industry without any prior consent from the respondent Pollution Control Board, Assam.

3. Mr. Baruah, learned Standing Counsel, Pollution Control Board, Assam has submitted that the petitioner was operating the Industry without obtaining the consent to operate since about a long time. It was only on 01.08.2023, the petitioner was asked by the Pollution Control Board, Assam to stop operating the Industry as there was no prior consent to operate any industry. In the absence of consent from the Pollution Control Board is to regarded as

violation of the provisions of the Air [Prevention and Control of Pollution] Act, 1981.

4. Without adverting to the other rival contentions, the learned counsel for the parties have submitted that Section 21 of the Air [Prevention and Control of Pollution] Act, 1981 has *inter alia* provided that no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area. It is submitted by the learned counsel for the parties that the petitioner has, on 02.08.2023, submitted an application seeking consent to operate the Industry before the respondent Pollution Control Board.

5. Sub-section [4] of Section 21 of the Air [Prevention and Control of Pollution] Act, 1981 has provided that the State Board, within a period of 4 [four] months after the receipt of the application for consent referred to in sub-section [1], is required to pass an order in writing and for reasons to be recorded in the order, either granting the consent applied for, subject to such conditions and for such period, as may be specified in the order, or refusing such consent. In view of such position, this Court is of the considered view that as hardly a period of 1 [one] month has elapsed since the date of submission of the application, on 02.08.2023, by the petitioner seeking consent to operate the Industry, no order is required to be passed at this stage, as the respondent Pollution Control Board, Assam has to consider the said application in terms of the provisions of Air [Prevention and Control of Pollution] Act, 1981, more particularly, Section 21 thereof, on its own merits within the prescribed time period either granting or refusing such consent to operate the Industry.

6. The writ petition is, therefore, closed with the observations that the respondent Pollution Control Board, Assam shall consider the application submitted by the petitioner, on 02.08.2023, within the prescribed period of time, in accordance with law and on its own merits.

JUDGE

Comparing Assistant