

GAHC010270332023



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

**Case No. : WP(C)/6988/2023**

MD SHAHJAHAN ANSARI  
S/O LATE YAKUB ANSARI, R/O VILL-2 NO. MEDHICHUBURI, P.O.-  
RANGAGORA, P.S.-DHEKIAJULI, DIST- SONITPUR, ASSAM 784110

VERSUS

THE STATE OF ASSAM AND 10 ORS  
REPRESENTED BY THE SECRETARY, GOVT. OF ASSAM, DEPTT. OF  
ENVIRONMENT AND FOREST, DISPUR, GUWAHATI-781006

2:THE DISTRICT COMMISSIONER  
SONITPUR  
TEZPUR-784001

3:THE CIRCLE OFFICER  
DHEKIAJULI CIRCLE OFFICE  
SONITPUR  
ASSAM

4:THE REGIONAL EXECUTIVE ENGINEER  
POLLUTION CONTROL BOARD  
TEZPUR  
NABAPUR BYE LANE 2  
MAZGAON  
P.O.-TEZPUR  
DIST- SONITPUR  
ASSAM-784001

5:THE MEMBER SECRETARY  
POLLUTION CONTROL BOARD  
ASSAM  
BAMUNIMAIDAM

GUWAHATI-781021

6:SIRAJULI GAON PANCHAYAT  
REPRESENTED BY THE PRESIDENT/SECRETARY  
VILL-MEDHI CHUBURI  
P.O.-RANGAGORA  
DIST-SONITPUR (ASSAM)  
PIN-784110

7:DHEKIAJULI FIRE BRIGADE OFFICE  
CHITALMARI  
DHEKIAJULI  
SONITPUR  
ASSAM-784110

8:THE DIRECTOR  
FIRE AND EMERGENCY SERVICES  
ASSAM  
NEAR LAKHTOKIA OVER BRIDGE  
PANABAZAR  
GUWAHATI-781001  
KAMRUP (METRO)

9:THE PRINCIPAL COMMISSIONER OF STATE GOODS AND SERVICE TAX  
KAR BHAVAN  
DISPUR  
GUWAHATI-05

10:THE COMMISSIONER OF TAXES  
GOVERNMENT OF ASSAM  
KAR BHAWAN  
GANESHGURI  
GUWAHATI  
ASSAM  
INDIA  
PIN-781006

11:M/S MANSURI COTTON INDUSTRY  
THROUGH ITS PROPRIETOR MD. IKRAM ALAM MANSURI  
S/O LATE NIJAMUDIN MANSURI  
R/O VILL- 2 NO. MEDHICHUBURI  
P.O.-RANGAGORA  
P.S.-DHEKIAJULI  
DIST-SONITPUR  
ASSAM-78411

**Advocate for the Petitioner : MR. S K SINGH**

**Advocate for the Respondent : SC, FOREST**

**BEFORE  
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**Date : 20-12-2023**

Heard Mr. A. Ganguly, learned counsel for the petitioner; Mr. I. Borthakur, learned counsel representing Mr. D. Gogoi, learned Standing Counsel, Environment and Forest Department for the respondent no. 1; Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent nos. 2, 3, 7 & 8; and Mr. S. Baruah, learned Standing Counsel, Pollution Control Board, Assam [PCBA] for the respondent nos. 4 & 5.

2. In this writ petition, the petitioner has projected that the respondent authorities in the Pollution Control Board, Assam [PCBA] had allowed the respondent no. 11 to operate a Waste Cloth Processing Industry in the name and style of *M/s Mansuri Cotton Industry* from a plot of land, adjacent to the plot of land belonging to the family of the petitioner, situate at Village – No. 2 Medhichuburi, P.O. – Rangagora, P.S. – Dhekiajuli, District – Sonitpur, Assam.

3. It has been brought to the notice that the respondent no. 11 had earlier approached this Court by way of a writ petition, W.P.[C] no. 5824/2023 projecting that on 01.08.2023, he had been asked to stop operating the said Waste Cloth Processing Industry on the premise as he was found running the industrial unit without any prior consent from the respondent Pollution Control Board, Assam [PCBA]. The said writ petition was disposed of on 04.10.2023 directing the respondent PCBA authorities to consider the application, if any,

submitted by the respondent no. 11 for grant of 'Consent to Establish'/'Consent to Operate' or otherwise in respect of the Waste Cloth Processing Industry in accordance with the provisions of the Air [Prevention and Control of Pollution] Act, 1981, more particularly, Section 21 thereof, on its own merits within the prescribed time period.

4. On 18.12.2023, Mr. Baruah, learned Standing Counsel, PCBA was requested to obtain instructions as to whether the respondent no. 11 has been granted any 'Consent to Establish'/'Consent to Operate' in connection with the Waste Cloth Processing Industry, stated to have been installed adjacent to the plot of land belonging to the family of the petitioner. In deference to the order dated 18.12.2023, Mr. Baruah has placed a set of instruction contained in a Communication bearing no. PC/ROT/COMP-4/2404/15-16/165 dated 19.12.2023.

5. From the contents of the said Communication, it is revealed that a public complaint was received from the petitioner and others on 21.07.2023 and a field inspection was carried out thereafter, by a team of officials of the PCBA on 28.07.2023. After the field inspection, a Report was submitted by the Inspecting Officials of the PCBA recording that there was every possibility of hazard fire from the industrial unit. It has been further reported that the industrial unit was operating since August, 2016 without any prior permission from the PCBA authorities. On receipt of the Report, the Head Office of the PCBA issued a letter to the industrial unit, operated by the respondent no. 11, to stop operation from 01.08.2023 until further orders. On 02.08.2023, the respondent no. 11 had submitted an application for 'Consent to Establish' and the said application was considered and thereafter, rejected on the basis of the Report submitted by the

Inspecting Officials of the PCBA, who inspected the site on 28.07.2023. When on 25.08.2023 a fresh complaint was received against the same Waste Cloth Processing Industry, a letter was issued on 30.10.2023 to the respondent no. 11 to close down the operation of the industrial unit and a copy of the said letter has also been sent to the Assam Power Distribution Company Limited [APDCL] to disconnect the power supply of the said industrial unit.

6. In view of such facts placed by the respondent PCBA authorities, Mr. Ganguly has submitted that the writ petition can be closed at this stage, reserving the liberty to the petitioner to approach again in the event of any subsequent cause of action.

7. As the Waste Cloth Processing Industry, operated by the respondent no. 11, has already been ordered for closure by the respondent PCBA authorities, this writ petition is closed as there is no surviving cause of action. Liberty stands reserved to the petitioner to avail appropriate remedy in the event of any subsequent cause of action.

8. The Communication bearing no. PC/ROT/COMP-4/2404/15-16/165 dated 19.12.2023, placed by Mr. Baruah, is kept as part of the case records.

**JUDGE**

**Comparing Assistant**