

GAHC010089592023



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

Case No. : PIL/40/2023

ANIMESH DEY AND 9 ORS
S/O LATE SAMARENDRA KR DEY, R/O SUBASH NAGAR, WARD NO. 5,
LANKA TOWN, P.O.-LANKA, DIST-NAGAON, ASSAM, PIN-782446

2: KANCHAN SIL DAS
S/O BIMAL SIL
R/O SUBASH NAGAR
WARD NO. 5
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

3: PARAMITA ROY SAHA
W/O BIPUL SAHA
R/O SUBASH NAGAR
WARD NO. 5
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

4: RAM PRASAD ROY
S/O LATE MONORONJAN ROY
R/O SUBASH NAGAR
WARD NO. 8
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

5: PARTHA SARATHI PAUL
S/O LATE GOPAL PAUL
R/O SUBASH NAGAR
WARD NO. 2
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

6: MITRA CHANDRA
S/O LATE PREMANU PAUL
R/O WARD NO. 9
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

7: AVIJIT ROY
S/O LATE KANU ROY
R/O WARD NO. 6
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

8: GOBINDA MAZUMDER
S/O LATE GAURANGA MAZUMDAR
R/O WARD NO. 6
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

9: KANKAN DHAR
S/O LATE RABINDRA KR DHAR
R/O WARD NO. 6
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

10: HARJIT SINGH
S/O KARMIT SINGH

R/O WARD NO. 1
LANKA TOWN
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-78244

VERSUS

THE UNION OF INDIA AND 9 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF RAILWAY, NEW
DELHI-11001

2:THE OFFICE OF THE GENERAL MANAGER
N.F. RAILWAY
P.O.-MALIGAON
ASSAM GUWAHATI-781001

3:THE DIVISIONAL RAILWAY MANAGER
N.F. RAILWAY LUMDING DIVISION
LUMDING
P.O.-LUMDING PIN-782447

4:THE REGIONAL OFFICE
POLLUTION CONTROL BOARD OF ASSAM
NAGAON ASSAM
PIN-782001

5:THE POLLUTION CONTROL BAORD OF ASSAM
BAMUNIMAIDAM
PIN-781021

6:THE CENTRAL POLLUTION CONTROL BOARD
NEW DELHI-110032

7:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
DEPARTMENT OF ENVIRONMENT AND FOREST
DISPUR GUWAHATI-6

8:THE SUB DIVISIONAL OFFICER (CIVIL)
HOJAI SUB DIVISION
SHANKARDEV NAGAR
HOJAI
NAGAON ASSAM
PIN-782442

9:THE MANAGING AUTHORITY DALMIA CEMENT (BHARAT) LTD
PIPAL PHUKURI
P.O.-LANKA
DIST-NAGAON
ASSAM
PIN-782446

10:DALMIA CEMENT (NORTH EAST) LTD.
THE MANAGING AUTHORITY DALMIA CEMENT
(BHARAT) LTD. PIPAL PHUKURI P.O- LANKA
DIST-NAGAON
ASSAM PIN-782446

For the petitioner : Mr. A.R. Sikdar, Advocate
For the respondents : Ms. S. Baruah, Advocate for
For respondent Nos.1, 2 & 3
Mr. S. Baruah, S.C., PCB,
For respondent Nos.4, 5 & 6
Mr. J. Roy, Sr. Advocate
Assisted by Mr. S.R. Gogoi,
Advocate for respondent Nos.9 & 10

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

25-09-2024

(Vijay Bishnoi, C.J.)

By this PIL petition, the petitioner has raised a grievance regarding the pollution caused at the Lanka Railway Station while loading and unloading of the harmful dust materials like fly-ash, clinker, pet coke, coal and cement and other raw material from one destination to another destination.

This Court taking note of the issue raised in this PIL petition has issued

notices to the respondents. Response was filed on behalf of the Pollution Control Board, Assam (hereinafter to be referred as 'PCBA') wherein it is mentioned that after receipt of the complaint about the pollution caused at the Lanka Railway Station on account of loading and unloading of raw material, the PCBA issued notices to the Railway authorities in the month of May, 2024 and directed the Railway authorities to take strict measures to contain the pollution at the Lanka Railway Station.

On subsequent dates, responses were filed on behalf of the Railway as well as the PCBA and ultimately, the PCBA has issued a "Consent to Operate" dated 10.09.2024 to the Lanka Goods Shed, Northeast Frontier Railway with certain general and specific conditions. The general condition provides that the Railway authorities shall take steps to contain the pollution at Lanka Railway Station during loading and unloading operation of raw material. The specific conditions are imposed in respect of air aspect, water aspect, plastic waste aspect, E waste aspect and hazardous waste aspect. It is also mentioned in the "Consent to Operate" order that the unit shall submit compliance report of the mandated conditions by April 15, every year to the Member Secretary, PCBA as well as to Regional Office, Nagaon, PCBA. It is further mentioned in the "Consent to Operate" order that the PCBA will have the liberty to withdraw the "Consent to Operate" order if adequate pollution control and safety measures are not taken and the mandated conditions are not complied.

Learned counsel for the petitioner submits that in the "Consent to Operate" order, the PCBA has not specified the manner in which the loading and unloading operations are to be conducted.

After hearing the learned counsel for the petitioner, we are of the view that in the "Consent to Operate" order, the PCBA has imposed general and

specific conditions upon the industry with the direction to maintain the pollution level under control on all the aspects. Needless to say that if the industry fails to maintain the pollution level under control and if also fails to maintain adequate pollution control and safety measures, the PCBA is always free to take action against the said industry in accordance with law.

In view of the above, we are of the view that no further order is required to be passed in this PIL petition and the same is, therefore, disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant