

GAHC010169772020



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

Case No. : WP(C)/5273/2020

M/S KAMAKHYA SOAP INDUSTRY AND ANR.
HAVING ITS PLACE OF BUSINESS AT KALISTHAN, RAJAMAIDAM ROAD,
WARD NO. 5, P.O. AND P.S. JORHAT, DIST.- JORHAT, ASSAM, (REP. BY ITS
PROPRIETOR SRI PRABIR DUTTA)

2: PRABIR DUTTA
S/O- LT. BAIDYA NATH DUTTA
H.N. 244
KALISTHAN
RAJAMAIDAM ROAD
WARD NO. 5
P.O. AND P.S. JORHAT
DIST.- JORHAT
ASSA

VERSUS

THE STATE OF ASSAM AND 12 ORS.
REP. BY THE COMM. AND SECY., DEPTT. OF ENVIRONMENT AND FOREST,
GOVT. OF ASSAM, ASSAM SECRETARIAT, GHY-6, ASSAM

2:THE DY. COMMISSIONER
JORHAT DISTRICT
PIN NO.- 785001

3:THE DISTRICT MAGISTRATE
OFFICE OF THE DY. COMMISSIONER JORHAT DISTRICT
PIN- 785001

4:THE CIRCLE OFFICER CUM EXECUTIVE MAGISTRATE
EAST REVENUE CIRCLE
JORHAT DISTRICT
ASSAM
PIN- 785001

5:THE CHAIR PERSON
JORHAT MUNICIPAL BOARD
JORHAT
ASSAM
PIN- 785001

6:THE PRESIDENT
JORHAT MUNICIPAL BOARD
JORHAT
ASSAM
PIN- 785001

7:THE EXECUTIVE OFFICER
JORHAT MUNICIPAL BOARD
JORHAT
ASSAM
PIN- 785001

8:THE CHAIRMAN
POLLUTION CONTROL BOARD
ASSAM
BAMUNIMADAM
GHY-21

9:THE MEMBER SECRETARY
POLLUTION CONTROL BOARD
ASSAM
BAMUNIMADAM
GHY-21

10:THE SENIOR ENVIRONMENTAL ENGINEER
REGIONAL LABORATORY CUM OFFICE
POLLUTION CONTROL BOARD
SIVSAGAR
ASSAM

11:REGIONAL EXECUTIVE ENGINEER
REGIONAL LABORATORY CUM OFFICE
POLLUTION CONTROL BOARD
SIVSAGAR
ASSAM

12:ASSTT. ENGINEER
REGIONAL LABORATORY CUM OFFICE
POLLUTION CONTROL BOARD
SIVSAGAR
ASSAM

13:GENERAL MANAGER
DISTRICT INDUSTRIES AND COMMERCE CENTRE (DICC)
DIST.- JORHAT
JORHAT-8
ASSA

For the Petitioner(s) : Mr. J. Roy, Sr. Advocate

For the Respondent(s) : Mr. S. Baruah, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 05.02.2024

1. The instant writ petition has been filed by the Petitioners challenging the order dated 11.09.2020 whereby the District Magistrate, Jorhat closed down the Petitioners' industry.
2. This Court had duly perused the order dated 11.09.2020 which reveals that on the basis of the report received from the Senior Environmental Engineer, Pollution Control Board and others, it was observed by the District Magistrate, Jorhat that the Petitioners were not operating as per the industrial terms and norms which has caused threat and pollution to the local people in and around the soap factory.
3. When the matter was taken up by this Court on 29.11.2023, the counsel for the Pollution Control Board submitted that the Petitioners were running the factory without the consent from the Pollution Control Board. On the other hand, the learned Senior counsel appearing on behalf of the Petitioners duly submitted that the Petitioners duly applied for the consent, however the same was not considered by the Pollution Control Board. It is under such circumstances, this Court passed an order on 29.11.2023 directing the counsel

for the Pollution Control Board to apprise this Court as to what steps have been taken pursuant to the application filed by the Petitioners.

4. Mr. S. Baruah, the learned Standing counsel for the Pollution Control Board has placed before this Court a print out of the application portal seeking consent. From a perusal of the said print out, it reveals that on 07.04.2022, the Petitioners had informed that there was a delay on the part of the Petitioners to reply to a query and the time period for obtaining consent for the year 2021-22 was almost over. It was also mentioned by the Petitioners that they shall apply fresh Consent to Operate application for the year 2022-2023 for which the Petitioners requested to reject their earlier application. On the basis of the said request, the application was closed on refusal. The said print out is kept on record and marked with the letter "X".

5. Therefore, from the above, it is apparent that the Petitioners as of now do not have any Consent to Operate from the Pollution Control Board which is mandatory. Under such circumstances, the question of interfering with the impugned order does not arise. Be that as it may, this Court however grants the liberty to the Petitioners to apply for the Consent to Operate before the Pollution Control Board as per the prescription of law and in the event such consent is duly granted, the Petitioners would further be at liberty to approach the District Magistrate, Jorhat so that the Petitioners can be permitted to run their factory.

6. With above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant