

GAHC010214082021



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

Case No. : PIL/85/2021

MD NUR ISLAM
S/O. LT. ABDUL HELIM, VILL. MIKIRGAON, P.O. PATUWAKATA, DIST.
MORIGAON, ASSAM, PIN-782104.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REP. BY THE COMM. AND SECY., GOVT. OF ASSAM, ENVIRONMENT AND
FOREST DEPTT., DISPUR, GUWAHATI-06.

2:THE COMMISSIONER AND SECY.

GOVT. OF ASSAM
AGRICULTURE DEPTT.
DISPUR
GUWAHATI-06.

3:THE DY. COMMISSIONER

MORIGAON
ASSAM.

4:THE ASSAM STATE POLLUTION CONTROL BOARD

REP. BY ITS MEMBER SECRETARY
BAMUNIMAIDAM
GUWAHATI-781021.

5:THE CIRCLE OFFICER

MIKIRBHETA REVENUE CIRCLE
MIKIRBHETA

MORIGAON
ASSAM.

6:THE ASSTT. DIRECTOR OF AGRICULTURE

(SOIL AND SURVEY) ASSAM
ULUBARI
KAMRUP(M)
ASSAM-781007.

7:THE AGRICULTURE DEVELOPMENT OFFICER

JALUGUTI AGRI CIRCLE
O/O. OF DISTRICT AGRICULTURE OFFICE
MORIGAON
ASSAM.

8:M/S MSR BRICK INDUSTRY
REP. BY ITS OWNER/PARTNER MATIBUR RAHMAN
S/O. RAJAB ALI
VILL. JORIBOR
P.O. PHALIHAMARI PATHAR
P.S. BHURAGAON
DIST. MORIGAON
ASSAM.

9:ABDUL HASHIM
S/O. LT. ABUL MUNNAT
VILL. MIKIRGAON
P.O. PATUAKATA
P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM.

10:RIYAJ UDDIN AHMED
S/O. LT. ABUL MUNNAT
VILL. MIKIRGAON
P.O. PATUAKATA
P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : SC, AGRI. DEPARTMENT

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

27/02/2024

Vijay Bishnoi, CJ

Heard Mr. M. Dutta, learned counsel for the writ petitioner. We have also heard Mr. S. Baruah, learned Standing Counsel, Pollution Control Board of Assam, Mr. I. Borthakur, learned Standing Counsel, Forest Department, Assam, Mr. B. Choudhury, learned Standing Counsel, Agriculture Department Assam and Ms. S. Konwar, learned Government Advocate, Assam, appearing for the official respondents. No body is present on behalf of the respondent nos. 8, 9 and 10.

This writ petition, in the design of public interest, is filed by the petitioner essentially being aggrieved with the action of the Pollution Control Board (*herein after for short* **PCB**) in giving consent to the respondent no. 8 for establishing a Brick-klin in the village Mikirgaon in the district of Morigaon, in the year 2021. In the writ petition, the petitioner has raised certain points including that the conditions prescribed for establishment of Brick Klin has not been satisfied by the Brick Klin owner but the PCB ignoring the same, has granted permission for establishment of the Brick Klin unit to the respondent no. 8. It has also contended that before granting permission, the PCB has failed to arrange public hearing in the Gaon Panchayat to meet the objections, if any, of the local residents and villagers.

Affidavit is filed on behalf of the respondent State as well as the PCB. The PCB in its affidavit has controverted the submissions made on behalf of the petitioner to the effect that the norms provided for establishment of the Brick Klin has been ignored and no public

hearing was conducted before giving consent to the respondent no. 8 for establishing the Brick Klin unit.

Reply to the counter affidavit filed by the PCB is also filed on behalf of the petitioner wherein, the contentions of the PCB has been controverted.

Having heard the learned counsel for the parties and after going through the materials available on record, we deem it appropriate to dispose of the writ petition by granting liberty to the petitioner to file appropriate representation before the concerned authority of the PCB, raising objections and for revocation of the consent given to the respondent no. 8 for establishing a Brick Klin Unit, within a period of 4 (four) weeks.

If such representation is filed on behalf of the petitioner within the stipulated time, the concerned authority of the PCB shall consider and decide the same after providing opportunity of hearing to all concerned including the effected persons within a period of 4(four) weeks thereafter.

With these observations, the writ petition stands disposed of.

JUDGE

CHIEF JUSTICE

sukhamay

Comparing Assistant