

GAHC010227022023



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

**WP(C) 5956/2023**

**M/S North East Calciners Pvt. Ltd.**

.....**Petitioner**

**VERSUS**

**The Pollution Control Board, Assam & Anr.**

.....**Respondents**

**BEFORE**  
**HON'BLE MR. JUSTICE KAUSHIK GOSWAMI**

For the petitioner : Mr. B. Gogoi, Advocate.

For the respondents : Mr. S. Baruah, SC, PCB.

Date of hearing : 14.06.2024

Date of Judgment/Order : **14.06.2024**

**JUDGMENT & ORDER**

Heard Mr. B. Gogoi, learned counsel for the petitioner. Also heard Mr. S. Baruah, learned Standing Counsel for the PCB.

2. This is a petition filed by the petitioner under Article 226 of the Constitution of India,

seeking *inter alia* setting aside the order of suspension of the "Consent to Establish" dated 11.02.2020 issued by the Pollution Control Board, Assam, and further to restore the consent to establish issued on 09.07.2019 and render it valid for another 5(five) years from the date of revocation/restoration of the "Consent to Establish".

3. The case of the petitioner is that the Pollution Control Board, Assam vide order dated 09.07.2019 granted "Consent to Establish" to the petitioner for setting up a "Calcined Petroleum Coke" manufacturing unit with maximum installed production capacity 24000 MTPA at village and P.O. Chaprakata, Dist-Bongaigaon, Assam, under Section 21 of Air (Prevention and Control of Pollution) Act, 1981, for a period till the date of commissioning of the unit or 5(five) years, whichever is earlier.

4. Later on, vide order dated 11.02.2020, the PCB suspended the "Consent to Establish" to issued until the land is converted from agricultural class to industrial class. Subsequently, the petitioner applied for converting the subject line to industrial purposes and the Additional Deputy Commissioner (Revenue) Bongaigaon, vide order dated 20.05.2023 converted the subject land from Salitoli class to Industrial class.

5. Pursuant to the said conversion, the petitioner vide letter dated 31.05.2023 represented before the PCB to revoke the suspension of the consent to establish. Since, no result was forthcoming, another representation on 27.07.2023 was filed before the Chairman of PCB seeking revocation of the suspension of the "Consent to Establish". Since no action was taken to revoke the suspension order, the present petition has been filed.

6. Mr. B. Gogoi, learned counsel for the petitioner submits that the "Consent to Establish" granted to the petitioner was kept on suspension merely on the ground that the land of the petitioner was an agricultural land and not an Industrial land. He further submits that it is clearly mentioned in the said suspension order that the suspension of the consent granted earlier is till the petitioner converts the subject land to Industrial purposes. He accordingly, submits that the non-action of the respondent authorities to lift the suspension order is absolutely arbitrary and therefore, warrants intervention from this Hon'ble Court under Article 226 of the Constitution of India.

7. Mr. S. Baruah, learned Standing Counsel, PCB submits that the PCB authorities have

received public complaints against the petitioner for which the suspension has not been revoked.

8. I have heard the submission made in the Bar and I have also perused the materials available on record.

9. It appears that the consent to establish a manufacturing unit was issued to the petitioner vide order dated 09.07.2019 for a period of 5(five) years which was subsequently suspended on 11.02.2020 until the land is converted to an agricultural class to Industrial class. The relevant portion of the aforesaid suspension order dated 11.02.2020 is reproduced hereunder already reference:-

“To

Mr. Piyush Maskara, Director

Dated Guwahati the, 11th Feb, 2020

M/s. North East Calciners Pvt. Ltd.  
Vill-Hapachora P.O. Chaprakata,  
Dist: Bongaigaon (Assam)

Sub: *SUSPENSION OF CONSENT TO ESTABLISH (CTE).*

Ref: i) Consent to Establish vide order No. WB/BONG/T- 735/19-20/53/dtd. 09.07.2019

ii) Show Cause Notice vide No. WB/BONG/T-735/19-20/61/2641 dtd. 09.12.2019.

iii) Reminder of Show Cause Notice vide No. WB/BONG/T-735/19-20/62/2882 dtd. 06.01.2020.

Dear Sir,

With reference to the above, it is to inform you that the Consent to Establish (CTE) issued to your unit vide No. WB/BONG/T-735/19-20/53/432 dtd. 09.07.2019 has been suspended with immediate effect until the land is converted from agricultural class to industrial class.

Therefore it is directed to stop all activities of the unit henceforth.”

10. Thereafter, it appears that the petitioner has converted the subject land to Industrial class and hence, accordingly, prayed before the PCB authorities to revoke the suspension and allow them to establish the manufacturing unit.

11. A bare perusal of the suspension order would amply demonstrate that the suspension order was only till the petitioner converts the subject land to Industrial class. Since, in the present case, the petitioner has converted the subject land to Industrial class, it is imperative on the respondent authorities to revoke the suspension and restore the “Consent to Establish” issued on 09.07.2019.

12. The argument of the PCB to the effect that the public complaints have been received

against the petitioner is of no consequence inasmuch as, in the event of receipt of public complaints, the PCB authorities are not remediless.

13. Be that as it may, non-lifting of the suspension order after the petitioner has converted the subject land to Industrial Class appears to be arbitrary. As such, the writ petition succeeds.

14. Accordingly, it is directed that the suspension order dated 11.02.2020 stands revoked and the consent granted earlier is restored.

15. Resultantly, the writ petition stands allowed and disposed of.

**JUDGE**

**Comparing Assistant**