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2026:GAU-AS:17400

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

Case No. : WP(C)/2963/2026

MAHANTA BRICK INDUSTRY
REPRESENTED BY ITS PROPRIETOR KAMAL CHANDRA MAHANTA, AGE -62 YEAR, S/O - LATE BASISTHA CHANDRA MAHANTA, R/O - WARD NO. 10,, DHEKIAJULI, DIST- SONITPUR,ASSAM, PIN -784110.

VERSUS

THE POLLUTION CONTROL BOARD ASSAM
REPRESENTED BY THE CHAIRMAN, BAMUNIMAIDAM, GUWAHATI -21.

2:THE MEMBER SECRETARY
POLLUTION CONTROL BOARD
BAMUNIMAIDAM
GUWAHATI -21.

3:DEPUTY COMMISSIONER
SONITPUR
TEZPUR
DISTRICT -SONITPUR
ASSAM
PIN-78400

Advocate for the Petitioner : MS. P SAHARIA, C SARMA,MR. P MAHANTA

Advocate for the Respondent : SC, PCB, GA, ASSAM

BEFORE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

25-11-2026

1. Heard Mr. P. Mahanta, learned Senior Counsel, assisted by Ms. P. Saharia, learned counsel for the petitioner. Also heard Mr. S. Baruah, learned Standing Counsel, Pollution Control Board, Assam and Ms. U. Das, learned State counsel for the respondents.

2. The petitioner, by filing this writ petition, prays for a direction to the respondent authorities to extend the time for conversion of his brick industry's existing technology to Zig-Zag technology and continue to run the industry with existing technology up to 31.03.2027, though the period for such conversion in terms of Public Notice dated 19.03.2025 issued by the Pollution Control Board (PCB), Assam, had expired.

3. The facts are in a very narrow compass.

4. The Ministry of Environment, Forest and Climate Change, Union of India, notified the Environment (Protection) Amendment Rules, 2022, in exercise of the powers conferred under Sections 6 and 25 of the Environment (Protection) Act, 1986.

5. By the aforesaid amendment, Schedule-I was amended by inserting an entry at serial No. 74 of the principal Rule. For the sake of completeness, the relevant portion of the amendment is quoted hereinbelow:

> "2. In the Environment (Protection) Rules, 1986, in the SCHEDULE-I, for entry at Sl. No. 74, the following entry shall be substituted, namely:-

"74	Brick Kilns	Particulate matter in stack emission	250mg/Nm^3
		Minimum stack height (Vertical Shaft Brick Kilns) -Kiln capacity less than 30,000 bricks per day -Kiln capacity equal or more than 30,000 bricks per day	14m (at least 7.5m from loading platform) 16 m (at least 8.5m from loading platform)
		Minimum stack height (Other than Vertical Shaft Brick Kilns) -Kiln capacity less than 30,000 bricks per day -Kiln capacity equal or more than 30,000 bricks per day	 24 m 27 m

6. The Notes appended to the Amendment Rules, more particularly under Note No. 2, provides that the existing brick kilns which are not following zig-zag technology or vertical shaft or use Piped Natural Gas as fuel in brick making, shall be converted into zig-zag technology or vertical shaft or use Piped Natural Gas as fuel in brick making within a period of one year, in case of kilns located within 10 km radius of non-attainment cities as defined by the Central Pollution Control Board, and within two years for other areas.

It was further clarified that in cases where the Central Pollution Control Board/State Pollution Control Boards/Pollution Control Committees have separately laid down timelines for conversion, such orders shall prevail.

7. The Pollution Control Board, Assam issued a Public Notice on 19.03.2025 in terms of the Notification dated 15.12.2023 of the Ministry of Environment, Forest and Climate Change, directing all the brick kilns to convert their existing technology to zig-zag technology or vertical shaft or use piped natural gas as fuel within one year, with effect from 23.02.2023, in case of kilns located within 10 km radius of non-attainment cities, and in case of other kilns, one year, with effect from 23.02.2024.

8. However, under another Notification of the Union Ministry dated 22.01.2025, the time limit for brick kilns located outside the 10 km radius of non-attainment cities was extended by two years, four months, and seven days. All existing brick kilns within the State of Assam were directed to comply with the provisions of the said Notification within the stipulated time.

9. The petitioner submits that he needs further extension of time beyond such stipulated extension.

The petitioner cites several difficulties: the seasonal nature of the brick kiln industry, the need for huge investment in such conversion, and the unavailability of such technology within the State of Assam.

10. In the opinion of this Court, in the absence of a successful challenge to the principal rule and the Notices fixing the timeline issued by the Union Ministry and the Pollution Control Board, Assam, this Court would exceed its remit if such a prayer is allowed.

11. Further, there is no impediment to the petitioner making the conversion, but it cannot be allowed to operate with the existing technology before successfully challenging the amendment and the notifications.

12. Accordingly, for the reasons recorded hereinabove, the present writ petition stands dismissed.

JUDGE

Comparing Assistant