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2026:GAU-AS:14868

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

Case No. : WP(C)/5432/2026

MD ABUL KASHIM TAPADAR
S/O. ABDUL MOTLIB TAPADAR, PROPRIETOR OF M/S SMART BRICKS INDUSTRY, 4 RESIDENT OF VILLAGE BHABANIPUR, P.O. CHANDRAPUR, P.S- LALA DISTRICT HAILAKANDI, ASSAM, PIN 788163.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, DEPARTMENT OF ENVIRONMENT AND FORESTS, DISPUR, GUWAHATI - 781006.

2:THE POLLUTION CONTROL BOARD
ASSAM (PCBA)
REPRESENTED BY ITS CHAIRMAN
BAMUNIMAIDAM
GUWAHATI
ASSAM - 781021.

3:THE MEMBER SECRETARY
POLLUTION CONTROL BOARD
ASSAM
(PCBA) BAMUNIMAIDAM
GUWAHATI
ASSAM - 781021.

4:THE REGIONAL EXECUTIVE ENGINEER
POLLUTION CONTROL BOARD
ASSAM
REGIONAL OFFICE
SILCHAR / CACHAR ZONE
ASSAM.

5:THE DISTRICT COMMISSIONER
DISTRICT HAILAKANDI
ASSAM
PIN -788151.

6:THE GENERAL MANAGER
DISTRICT INDUSTRIES COMMERCE CENTRE (DICC)
HAILAKANDI
ASSAM
PIN -788151.

7:THE CIRCLE OFFICER
OFFICE OF THE CIRCLE OFFICER
LALA CIRCLE
DISTRICT HAILAKANDI
ASSAM
PIN -788163

Advocate for the petitioner(s): Mr. AR Bhuyan, Senior Advocate
Ms. N Ahmed

Advocate for the respondent(s): Mr. RR Gogoi
Standing Counsel, Forest Department
Mr. R Talukdar
For respondent Nos.5, 6 and 7
None appears on behalf of the
Pollution Control Board of Assam

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

05.10.2026

Heard Mr. AR Bhuyan, the learned Senior Counsel, assisted by Ms. N Ahmed, the learned counsel appearing on behalf of the petitioner. Also heard Mr.

RR Gogoi, the learned Standing Counsel, Forest Department, who appears on behalf of the respondent No.1 and Mr. R Talukdar, the learned counsel who appears on behalf of respondent Nos.5, 6 and 7. None appears on behalf of the Pollution Control Board of Assam.

2. The present writ petition has been filed thereby seeking two months' time by the petitioner to comply with the instructions contained in the Public Notice issued by the Pollution Control Board, Assam, dated 16.06.2026.

3. The brief facts of the case as would emerge from a perusal of the writ petition are that the petitioner has set up a brick kiln industry in the name and style of M/s. Smart Bricks Industries. The petitioner is also registered as a micro enterprise under the provisions of the ***Micro, Small and Medium Enterprises Development Act, 2006***. The petitioner also avers that there are certain recovery proceedings initiated against the petitioner.

4. The records reveal that on 22.02.2022, a Notification was issued by the Ministry of Environment, Forest and Climate Change in exercise of powers under Sections 6 and 25 of the ***Environment (Protection) Act, 1986***, whereby it was mandated that the existing brick kilns which are not following the zig-zag technology or vertical shaft or use piped natural gas as fuel in the brick making shall be converted to zig-zag technology or vertical shaft or use piped natural gas as fuel in brick making within a period of (a) 1(one) year in the case of kilns located within 10(ten) km radius of non-attainment cities as defined by the Central Pollution Control Board; (b) 2(two) years in other areas.

5. The records further reveal that on 15.12.2023, another Notification was issued by the Ministry of Environment, Forest and Climate Change whereby entry at Serial No.74 of Schedule I for Note No.2 was substituted. The

substituted Note, being relevant, is reproduced hereinunder:

"2. 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 to zig-zag technology or vertical shaft or use piped natural gas as fuel in brick making within a period of:

(a) one year w.e.f. 23.02.2023 in case of kilns located within ten kilometers radius of non-attainment cities; except those located in million plus population cities, NCR districts, and critically & severely polluted areas as categorized by CPCB;

(b) one year w.e.f. 23.02.2024 in case of other kilns.

Provided that in case where Commission for Air Quality Management / Central Pollution Control Board / State Pollution Control Board / Pollution Control Committee has separately issued more stringent Norms/timelines, such orders shall prevail."

6. From the above quoted Notes, it would be seen that the conversion to zig-zag technology or vertical shaft or use piped natural gas as fuel in brick making was to be carried out within 1(one) year w.e.f. 23.02.2023 in case of kilns located within 10(ten) km radius of non-attainment cities, except those located in million-population cities, NCR districts, and critically and severely polluted areas as categorized by the CPCB and in respect to the other kilns, it was 1(one) year w.e.f. 23.02.2024.

7. Subsequent thereto, vide another Notification dated 22.01.2025, Sl.No.74 of Schedule I, in the Notes in Serial No.2, in paragraph (b), for the words "1(one) year", the words "2(two) years, 4(four) months and 7(seven) days" were substituted. Under such circumstances, it was, therefore, mandatory that w.e.f.

01.07.2026, there could not be any brick kiln industry carrying out their business of brick making without either employing the zig-zag technology, vertical shaft, or use piped natural gas as fuel.

8. It is under such circumstances, on 16.06.2026, a Public Notice was issued by the Assam Pollution Control Board informing all brick kiln industries to carry out the necessary conversion.

9. The petitioner, admittedly, during this period, had not converted. On 22.09.2026, the present writ petition was filed seeking an additional 2(two) months time to do so. It is the opinion of this Court that granting of an extension of 2(two) months would be nullifying the effect of the amendments carried out to Serial No.74 of Schedule I to the ***Environment (Protection) Rules, 1986.*** Under such circumstances, this Court is not inclined to entertain the instant writ petition, for which the writ petition stands dismissed.

JUDGE

Comparing Assistant