

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Original Application No. 808 OF 2024

In the matter of:

Utpal Saikia & Ors.

Applicant

Vs.

State of Assam

Respondent

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(Filed by Adv. Rajkumar)
On behalf of Central Pollution Control Board

Place: Delhi

Dated: 04.11.2024

JOINT COMMITTEE REPORT

**IN COMPLIANCE TO HON'BLE NGT ORDER DATED 27.08.2024
IN THE MATTER OF O.A. NO. 808/2024
(UTPAL SAIKIA & OTHERS VS. STATE OF ASSAM)**



**REGIONAL DIRECTORATE (NORTH-EAST)
CENTRAL POLLUTION CONTROL BOARD
(Ministry of Environment, Forest & Climate Change)
CTO Building, Ground Floor
Shillong - 793001**

[November, 2024]

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1.0 BACKGROUND:

The present Original Application (O.A.) No. 808/2024 has been registered by Hon'ble National Green Tribunal (NGT) in accordance with NGT Act 2010 in exercise of suo-motu jurisdiction on a letter petition dated 19.10.2023 received from several persons led by Utpal Saikia.

Hon'ble NGT *vide* order dated 27.08.2024 (copy enclosed as **Annexure-I**) in the matter of O.A. No. 808/2024 (Utpal Saikia and Others V/s State of Assam) issued the relevant directions, reproduced below:

"... 2. Complainants have stated that Pobitora Wildlife Sanctuary comprised of 2 blocks and a rich biodiversity with more than 103 one horned Rhinos, 300 Indian Buffaloes, Leopards, Deers, Pangolins, Wild boars etc., besides migratory birds.

*3. One Dilip Chetry, an industrialist, is creating an industrial zone amidst 2 **Blocks** of Pobitora Wildlife Sanctuary and trying to establish brick-kiln using coal as fuel. It is also said that attempt is also been made to establish cement factories and stone quarries in the said area.*

*4. A Report of Forest Range Officer, Pobitora Wildlife Range sent to Regional Forest Officer *vide* letter dated 04.05.2023 has also been appended to the said complaint wherein Forest Range Officer has reported that he found brick-kiln at Sativeti area on 01.05.2023 which is surrounded by paddy fields of villagers and is about 500 meters away from the boundary of Rajamayog hill point of Wildlife Sanctuary and falls within proposed eco-sensitive zone of protected area.*

*5. Further letter dated 04.03.2024 sent by Divisional Forest Officer to Assam State Pollution Control Board has also been placed on record whereby Divisional Forest Officer forwarded inventory report of industries situated in the proposed eco-sensitive zone of Pobitora Wildlife Sanctuary as received from Range Officer, Pobitora Wildlife Range. *Vide* letter dated 15.01.2024, Forest Officer stated that sanctuary is constituted of two reserve forests namely Bada Mayang Reserve Forest (area 1191.86 hectares) and Pobitora Reserve Forest (area 1584.76 hectares) and government land (area 1104 hectare). The said area was declared as wildlife Sanctuary by the Government of Assam's notification dated 17.03.1998. Proposed eco-sensitive zone of Pobitora*

Wildlife Sanctuary includes an extent area of one kilometer radius from the periphery of wildlife sanctuary as also Intermediate States between the above Reserve Forest and government land. Industries enlisted by Range Officer, Pobitora Wildlife Range are situated within the said proposed eco sensitive zone of Pobitora Wildlife Sanctuary. Divisional Forest Officer had requested Chairman Assam State Pollution Control Board to take appropriate action in the matter.

6. It does not appear from record that any effective action has been taken in the matter and as per complaint said industries are still operating in questioned area.

7. In our view, prima-facie a substantial question relating to environment arising out of the implementation of enactments mentioned in Schedule -1 of NGT Act, 2010 has arisen. However, before taking any further action in the matter we find it appropriate to obtain a Factual Report and for this purpose constitute a Joint Committee comprising representative of Secretary, MoEF&CC, New Delhi; Member Secretary, PCBA; representative of Central Pollution Control Board (CPCB); and PCCF, Wildlife, Assam.

8. CPCB shall be the Nodal Agency for coordination and compliance of this order.

9. Above Committee shall collect relevant information after visiting site, and submit a Factual Report within one month with Registrar General of this Tribunal..."

The matter was further listed for hearing on 04.10.2024 (**Annexure-II**) and Hon'ble NGT, PB, Delhi again directed the Joint Committee to submit report within one month positively.

2.0 ACTION TAKEN BY CPCB

2.1 Constitution of Committee:

The Competent Authority of CPCB nominated Sh. Anil C. Ranveer, Scientist-E, Regional Directorate North East (RDNE), CPCB, Shillong to represent in the Joint Committee. As CPCB is made the Nodal Agency for coordination and compliance of the order, CPCB- Delhi requested Ministry of Environment, Forest & Climate Change (MoEF&CC) for nominating

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member for the Joint Committee. Accordingly, Wildlife Division, MoEF&CC-Delhi issued letter dated 10.10.2024 that Integrated Regional Office (IRO), MoEF&CC, Guwahati will nominate representative for the Joint Committee. Regional Office (RO), MoEF&CC, Shillong nominated Dr. Subrata Bose, Scientist-G, Sub-office MoEF&CC, Guwahati vide letter dated 15.10.2024. Finally, the Joint Committee was constituted comprising of following members:

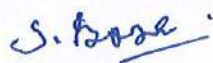
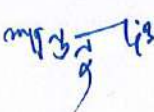
1. Sh. Sandeep Kumar, IFS, Principal Chief Conservator of Forest (PCCF), Wildlife, Guwahati, Assam.
2. Dr. Subrata Bose, Scientist-G, Sub; Office, MoEF&CC, Guwahati.
3. Sh. Anil C. Ranveer Scientist-E, RDNE, CPCB, Shillong
4. Dr. Shantanu Kr. Dutta, Member Secretary, Pollution Control Board Assam (PCBA), Guwahati.

2.2 Actions Taken by the Committee:

The committee visited the site on 18.10.2024 and observed number of Brick Kilns and other establishments like- resorts, hotels, etc. located near the periphery of Pobitora Wildlife Sanctuary (WLS). However, the committee decided to visit few of Brick Kiln including the Brick Kiln in question. The detailed observations of the committee are summarised below:

I. M/s Bhabani Brick Industry, (BBA), Village Sativeti, Chengmari Kisam, Dist.: Morigaon, Assam-782411.

- The consent to operate (CTO) issued by PCBA was valid upto 30.06.2024. (copy enclosed as **Annexure-III**).
- At the time of visit the unit was not in operation.
- The Unit had production capacity of 5 lakh bricks per round (batch) as per CTO.
- The owner of the Brick Kiln, Mr. Dilip Chetri, informed that the Brick Kiln was established during the year 2011.
- As informed by the owner, earlier there was a brick-kiln in the name of M/s ABB, (owned by Sh. Dilip Mazumdar) established at the same location.
- PCBA has issued notification *vide* Public Notice dated 08.12.2023 (copy enclosed as **Annexure- IV**) for adoption of zig-zag or vertical shaft technology within two years as per MoEF&CC notification dated 22.02.2022 (available on CPCB website


at https://cpcb.nic.in/uploads/Industry-Specific-Standards/Effluent/74-brick_kiln.pdf). However, at the time of visit, the Unit was found to be using conventional technology for manufacturing of bricks.

- The Unit has constructed fixed chimney of height about 30 meters.
- Third party stack monitoring was carried out by PCBA on 29.03.2024 (Copy of monitoring results are enclosed at **Annexure-V**).
- As informed by the owner, the Unit consumes coal as fuel for manufacturing of Bricks. About 50-60 tonnes of coal is consumed per round for brick manufacturing.
- As informed by the owner, soil used as raw material for the manufacturing of bricks is taken from own as well as nearby agricultural lands.
- The Committee had found that the unit is located at a distance of 892 m from Pobitora Wildlife Sanctuary.

Photographs taken during the committee visit are enclosed at **Annexure- A (Fig. 1)**

II. M/s BBD Brick Industry (Unit-I) and M/s BBD Brick Industries Unit-II Mayong, Dhekiabari, Dist.: Kamrup, Assam-782401

- The Unit-I has valid CTO up to 31.03.2029 issued by PCBA on 24.06.2024(**Annexure-VI**).
- The Unit-II has valid CTO up to 30.06.2025 issued by PCBA on 14.03.2024(**Annexure-VII**).
- The owner of the Brick Kiln, Mr. Shri Bipul Malakar informed that the Brick Kiln was established during the year 2011.
- The Unit-I has constructed rectangular shaped kiln for adoption of zig-zag technology for production of bricks as per MoEF&CC notification dated 22.02.2022.
- PCBA has issued notification for adoption of zig-zag technology for production of bricks as per MoEF&CC notification dated 22.02.2022. However, at the time of visit, the Unit-II was found to be using normal brick setting as in conventional technology for manufacturing of bricks.
- The Unit-I has production capacity of 20 lakh bricks per year and the Unit-II has production capacity of 5 lakh bricks per round as per CTO.

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Mr. Bipul Malakar
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- The Unit-I has a chimney of 35 meters height and the Unit-II has a chimney of 30-meter height.
- As informed by the Unit Representative, the Unit consumes coal as fuel for production of Bricks. About 50-60 tonnes of coal is consumed per round for manufacturing of bricks.
- As informed by the Unit Representative, soil used as raw material for the manufacturing of bricks is taken from own as well as nearby agricultural lands.
- The committee had found the Units are located at a distance of 374 m from Pobitora WLS.

Photographs taken during the committee visit are enclosed at **Annexure- A (Fig. 2)**

III. M/s Pashupati Nath Bricks (PNB), Dhekiabari, Govali, Dist.: Kamrup, Assam.

- The Unit has valid CTO up to 31.03.2025 issued by PCBA on 03.09.2024 (**Annexure-VIII**).
- The owner of the Brick Kiln Mr. Santosh Newar informed that the Brick Kiln was established during the year 2010.
- The Unit has production capacity of 20 Lakh bricks per season as per CTO.
- PCBA has issued notification for adoption of zig-zag technology for production of bricks as per MoEF&CC notification dated 22.02.2022. However, at the time of visit, the Unit was found to be using conventional technology for manufacturing of bricks.
- The Unit has fixed chimney of height about 30 meters.
- As informed by the Unit Representative, the Unit consumes coal as fuel for production of Bricks. About 50-60 tonnes of coal has been consumed per round for brick production.
- As informed by the Unit Representative, soil used as raw material for the manufacturing of bricks taken from nearby agricultural lands as informed by the Unit representative.
- The committee had found the Unit is located approx. 100 metres from school *Paschim Mayong High school*, Kamrup and 536m from Pobitora WLS.

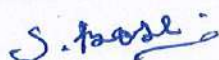
Photographs taken during the committee visit are enclosed at **Annexure -A (Fig. 3)**

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3.0 Overall Observations of the Committee:

1. Pobitora WLS is known for holding the highest density of Greater One Horned Rhinoceros in the country. Located in the sub-urbs of the capital city of Guwahati, Assam, the sanctuary harbors several species including Leopard, Capped Langur, Porcupine, Pangolin, One Horned Rhinoceros, Wild Water Buffalo, Monitor Lizard, Wild Boar etc. The Google Maps of Pobitora WLS is enclosed at **Annexure-IX**.
2. Pobitora WLS, located within the state of Assam, was notified in the year 1998 *vide* Notification No. FRS.19/87/152 dated 17/03/1998. It includes: Pobitora Reserve Forest, Rajamayong Hill Reserved Forest, and three Govt. khaslands—Murkata, Kamarpur, and Diprang. However, despite the notification, these khaslands have not been handed over to the Forest Department yet.
3. Interlocutory Applications (I.A.) Nos. 85332 and 85124 of 2023, under WP(C) No. 202/1995, were filed in the Hon'ble Supreme Court. The petitioner sought the Hon'ble Courts intervention in a) Demarcation of boundary of Pobitora WLS immediately, b) handing over of khaslands to provide adequate habitat to the Rhinos and c) demarcation of Eco-Sensitive Zone (ESZ) of Pobitora WLS.
4. Wildlife Division, MoEF&CC, Delhi has published guidelines for declaration of ESZ around National Parks and Wildlife Sanctuaries on 09.02.2011 (copy enclosed as **Annexure-X**), wherein permitted, regulated and prohibited activities in ESZ are listed. Some of the following activities which are prohibited/regulated/promoted in the said Guidelines, which are relevant to the matter at hand are:
 - i. Commercial mining activities are prohibited. However, Regulation will not prohibit digging of earth for construction or repair of house and for manufacturing of tiles or bricks for housing for personal consumption.
 - ii. Setting of Industries causing pollution have been prohibited.
 - iii. Establishment of Hotels and Resorts may be regulated as per approved master plan which takes care of habitats of the animals allowing no their restriction on movement
 - iv. Adaptation of Green Technology for all the activities should be actively promoted.



5. The committee has noted that there are various cases regarding establishment of Brick Kiln namely M/s BBA, Village Sativeti, Morigaon, around Pobitora WLS, are pending/disposed of by Hon'ble High Court of Gauhati. The details of writ petition are as follows:

- i. Case No.: WP(C)/1265/2012 (Lakshman Saikia & 3 others- V/s- State of Assam) was taken up by Hon'ble High Court of Gauhati and the same was disposed of by directing to conduct survey/inspection and if it is found that setting up of the Brick Kiln would have adverse effect on the surrounding and/or nearby land suitable for agriculture, or within the proposed ESZ, necessary order shall be passed by the Deputy Commissioner, Morigaon as well as by the Member Secretary, PCB, cancelling the earlier permissions, granted by the Deputy Commissioner, Morigaon and by the PCBA, respectively *vide* its order dated 28.10.2013 (copy enclosed as **Annexure-XI**).

In compliance to this Hon'ble High-Court order dated 28.10.2013 the Deputy Commissioner Morigaon has constituted a joint team comprising of a) Circle officer, Mayong Rev, Circle, b) DFO, Ghy, Wild Life division, c) District Agriculture Officer, Morigaon & Regional EE, PCBA, Nagaon for physical verification of the site. Accordingly, a joint team physically inspected the site & measured the distance of M/s BBA Brick Kiln industry from the periphery of Burha Mayong (Mayong Parbat) Hill Reserved Forest as well as Pobitora WLS on 19.12.2013 (Copy enclosed as **Annexure-XII**). The findings of Joint were as follows:

- a. The minimum distance from the stack of the M/s BBA, Brick Kiln to Mayang Reserved Forest boundary is 1212 meters (nearest point). 1120 meters from forest boundary to the nearest outer boundary of the brick unit.
- b. The distance of Brick Kiln from periphery to Pobitora WLS is 2130 meters to the stack and 2048.48 meters the nearest outer boundary of the said Brick Kiln.

The above findings of joint team were communicated to the Deputy Commissioner, Morigaon by Regional EE, PCBA, Nagaon on 23.12.2013.

However, in the present visit, this Committee has found that minimum distance of the brick kilns as mentioned in paragraphs no 2.2 I,II and III

- ii. Similarly, Case No.: WP(C)/4604/2019 (Dilip Chetri – V/s- Union of India & ors.) was taken up by Hon'ble High Court of Gauhati and the same was disposed of by directing Deputy Commissioner, Morigaon to decide afresh within a period of eight weeks from the date of order with regards to NOC issued in favour of the petitioner after considering the reports of the stakeholders and giving opportunity of hearing to the petitioner as well as the private respondents *vide* its order dated 30.08.2023 (copy enclosed as **Annexure-XIII**).
- iii. Case No.: WP(C)/1942/2024 (Bharat Saikia & 9 others- V/s- State of Assam & 9 ors.) was taken up by Hon'ble High Court of Gauhati and the same was disposed of by directing the District Commissioner, Morigaon to take necessary decision for establishment of brick-kiln M/s BBA, Village Sativeti within 4 weeks from 23.10.2024, after receipt of fresh report from PCBA, District Agricultural Officer & Circle Officer, Morigaon *vide* its order dated 27.09.2024 (copy enclosed as **Annexure-XIV**).

In compliance to this Hon'ble High-Court order dated 27.09.2024, PCBA has submitted report by recommending permission to M/s BBA Brick Kiln, Village Sativeti to continue its operation after completion of conversion to zig-zag technology and all requisite pollution control measures as per CTO. (Detailed report is enclosed at **Annexure-XV**).

The final decision with respect to establishment of M/s BBA Brick Kiln will be taken by the District Commissioner, Morigaon within four (4) weeks from 23.10.2024.

6. The committee had not noticed any cement industry within the proposed ESZ of Pobitora WLS for which allegation was reported in the Hon'ble NGT order.
7. DFO, Wildlife Guwahati has submitted a report to the District Commissioner, Morigaon, in which a list of construction activities ongoing and already completed within 1km from the boundary of Pobitora WLS has been given, *vide* letter dated 09.09.2024 (copy enclosed as **Annexure-XVI**).

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The committee had also observed few Brick Kilns as well as other establishments like resorts, hotels etc. within proposed ESZ of Pobitora WLS.

8. The committee had found Mystique Mayong Resort located approx. 820 meters away from Pobitora WLS.

4.0 Recommendations of the Committee:

Based on the site visit and previous Court orders relating to the Pobitora WLS, the Committee noted that the issues highlighted in the earlier cases are continuing since long (since year 1995).

However, the Committee felt that instead of a case-by-case decision a consolidated approach is needed in the area balancing Environment, Wildlife Habitat and Development. Unless the ESZ boundary of the Pobitora WLS is defined and Notified in Gazette, the highlighted issues may continue and emerge again and again. Thus, considering the present situation, the recommendations of the Committee are as follow:

1. The matter of the rationalisation of the boundary of Pobitora Wildlife Sanctuary is sub-judice in the Hon'ble Supreme Court in I.A. Nos. 85332 and 85124 of 2023, under WP(C) No. 202/1995. Only after the rationalisation of boundary of Pobitora Wildlife Sanctuary is concluded with the approval of the Hon'ble Supreme Court, the process for declaration of ESZ of the sanctuary would be initiated following the laid down procedure.
2. The concerned authorities may be directed to expedite the declaration of ESZ of Pobitora Wildlife Sanctuary after rationalization of the boundary of the sanctuary is concluded with the approval of the Hon'ble Supreme Court of India as the matter is presently sub-judice in I.A. Nos. 85332 and 85124 of 2023, under WP(C) No. 202/1995. The Judgement of Hon'ble Supreme Court dated- 26.04.2023 & 28.04.2023 in W.P. 202 of 1995 titled as T.N. Godavarman Thirumulpad vrs Union of India and Ors. needs to be considered while declaring ESZ. The prohibited Activities/industries (as well as public roads) may be shifted away from the ESZ.



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3. In order to comply with the statutory provisions of ESZ, extensive survey of Brick-kilns and other industries like resorts, hotels etc. shall be carried out by the concerned authorities and on the basis of the survey required permission may be granted by the regulatory authorities. However, on the basis of the report of DFO Wildlife, Guwahati dated 09.09.2024, the ongoing activities within one km from the boundary of Pobitora WLS should be immediately closed down/regulated/shifted outside the proposed ESZ.
4. In compliance to the Hon'ble High Court of Gauhati Order in the matter of WP(C)/1942/2024 dated 23.10.2024, the District Commissioner, Morigaon shall take necessary decision on the establishment of Brick Kiln by M/S BBA at Village Sativeti.
5. The Brick Kilns with zig-zag technology or vertical shaft or use of Piped Natural Gas as fuel and complying with the standards notified by MoEF&CC dated 22.02.2022 shall only be allowed outside the proposed ESZ.
6. The M/s BBD Brick Industry (Unit-I & Unit-II) and M/s PNB Brick Industries shall be shifted outside the proposed ESZ and Mystique Mayong Resort shall be regulated as per the MoEF&CC guidelines for declaration for ESZ around National Parks and WLS dated 09.02.2011.
7. Considering soil and water are the basic ingredients for brick manufacturing and large-scale extraction of both these resources in long term may have adverse impacts on environment. Thus, it may be regulated in accordance with the Mines and Minerals (Development and Regulation) Act, 1957 by State Government.
8. In order to support, wildlife habitat and villagers, regular monitoring of Air quality in and around the Pobitora WLS may be carried out by the concerned authorities for maintaining Air Quality standards.
9. To reduce vehicular and noise pollution inside the Pobitora WLS, infrastructure for Battery Operated vehicles may be developed and E-vehicles may be introduced in

time-bound manner for regular patrolling and Jungle-safari in the Pobitora WLS, for which separate funds may be allocated.

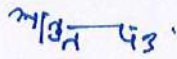
10. Further, to manage plastic waste, facility for collection and disposal of plastic waste may be introduced by the Forest Department for the tourist in the Pobitora WLS in accordance with the Plastic Waste Management Rules, 2016.
11. The major source of fuels in Brick Kilns as reported is Coal. To reduce air pollution and pollution load of transporting coal from far-away places and to manage local agri-waste alternative clean fuels such as Biomass Pellet/Briquette may be explored in Brick Kilns by preparation of guidelines from concerned authorities.
12. In addition to regulatory approach, awareness campaign may be conducted (mass/print media) to educate local people to the prevailing issues like Wildlife Habitat, Wildlife Sanctuary, ESZ, Impacts of Air Pollution, Eco-tourism benefits, etc. by concerned authorities.



Sandeep Kumar, IFS,
PCCF(Wildlife) &
Chief Wildlife Warden, Assam,
Guwahati



Dr. Subrata Bose,
Scientist-G,
Sub-Office, MoEF&CC,
Guwahati



Dr. Shantanu Kr. Dutta,
Member Secretary,
PCBA, Guwahati



Anil C. Ranveer
Scientist-E,
RDNE, CPCB, Shillong

Item No.02

Court No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No.808/2024

Utpal Saikia and Others

Applicant

Versus

State of Assam

Respondent

Date of hearing: 27.08.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant(s): None

ORDER

1. This Original Application has been registered under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') in exercise of *suo-moto* jurisdiction on a letter petition dated 19.10.2023, received from several persons led by Utpal Saikia.

2. Complainants have stated that Pobitora Wildlife Sanctuary comprised of 2 blocks and a rich biodiversity with more than 103 one horned Rhinos, 300 Indian Buffaloes, Leopards, Deers, Pangolins, Wild boars etc., besides migratory birds.

3. One Dilip Chetry, an industrialist, is creating an industrial zone amidst 2 Blocks of Pobitora Wildlife Sanctuary and trying to establish brick-kiln using coal a fuel. It is also said that attend is also been made to establish cement factories and stone quarries in the said area.

4. A Report of Forest Range Officer, Pobitora Wildlife Range sent to Regional Forest Officer vide letter dated 04.05.2023 has also been appended to the said complaint wherein Forest Range Officer has reported that he found brick-kiln at Sativeti area on 01.05.2023 which is surrounded by paddy fields of villagers and is about 500 meters away from the boundary of Rajamayog hill point of Wildlife Sanctuary and falls within proposed eco-sensitive zone of protected area.

5. Further letter dated 04.03.2024 sent by Divisional Forest Officer to Assam State Pollution Control Board has also been placed on record whereby Divisional Forest Officer forwarded inventory report of industries situated in the proposed eco-sensitive zone of Pobitora Wildlife Sanctuary as received from Range Officer, Pobitora Wildlife Range. Vide letter dated 15.01.2024, Forest Officer stated that sanctuary is constituted of two reserve forests namely Bada Mayang Reserve Forest (area 1191.86 hectares) and Pobitora Reserve Forest (area 1584.76 hectares) and government land (area 1104 hectare). The said area was declared as wildlife Sanctuary by the Government of Assam's notification dated 17.03.1998. Proposed eco-sensitive zone of Pobitora Wildlife Sanctuary includes an extent area of one kilometer radius from the periphery of wildlife sanctuary as also Intermediate States between the above Reserve Forest and government land. Industries enlisted by Range Officer, Pobitora Wildlife Range are situated within the said proposed eco sensitive zone of Pobitora Wildlife Sanctuary. Divisional Forest Officer had requested Chairman Assam State Pollution Control Board to take appropriate action in the matter.

6. It does not appear from record that any effective action has been taken in the matter and as per complaint said industries are still operating in questioned area.

7. In our view, prima-facie a substantial question relating to environment arising out of the implementation of enactments mentioned in Schedule -1 of NGT Act, 2010 has arisen. However, before taking any further action in the matter we find it appropriate to obtain a Factual Report and for this purpose constitute a Joint Committee comprising representative of Secretary, Ministry of Environment Forest and Climate Change, New Delhi; Member Secretary, Assam State Pollution Control Board; representative of Central Pollution Control Board; and Principal Chief Conservator of Forest, Wildlife, Assam.

8. Central Pollution Control Board shall be the Nodal Agency for co-ordination and compliance of this order.

9. Above Committee shall collect relevant information after visiting site, and submit a Factual Report within one month with Registrar General of this Tribunal

10. List for further consideration on 04.10.2024

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 22, 2024
Original Application No.808/2024
M

Item No. 12

Court No. 2

**BEFORE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 808/2024

Utpal Saikia and Others

Applicant

Versus

State of Assam

Respondent(s)

Date of hearing: 04.10.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondents: Mr. Raj Kumar, Advocate for CPCB (through VC)

ORDER

1. This Original Application has been registered under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') in exercise of suo-moto jurisdiction on a letter petition dated 19.10.2023, received from several persons led by Utpal Saikia.

2. Complainants have stated that Pobitora Wildlife Sanctuary comprised of 2 blocks and a rich biodiversity with more than 103 one horned Rhinos, 300 Indian Buffaloes, Leopards, Deers, Pangolins, Wild boars etc., besides migratory birds.

3. One Dilip Chetry, an industrialist, is creating an industrial zone amidst 2 Blocks of Pobitora Wildlife Sanctuary and trying to establish brick-kiln using coal a fuel. It is also said that attend is also been made to establish cement factories and stone quarries in the said area.

4. A Report of Forest Range Officer, Pobitora Wildlife Range sent to Regional Forest Officer vide letter dated 04.05.2023 has also been appended to the said complaint wherein Forest Range Officer has reported that he found brick-kiln at Sativeti area on 01.05.2023 which is surrounded by paddy fields of villagers and is about 500 meters away from the boundary of Rajamayog hill point of Wildlife Sanctuary and falls within proposed eco-sensitive zone of protected area.

5. Further letter dated 04.03.2024 sent by Divisional Forest Officer to Assam State Pollution Control Board has also been placed on record whereby Divisional Forest Officer forwarded inventory report of industries situated in the proposed eco-sensitive zone of Pobitora Wildlife Sanctuary as received from Range Officer, Pobitora Wildlife Range. Vide letter dated 15.01.2024, Forest Officer stated that sanctuary is constituted of two reserve forests namely Bada Mayang Reserve Forest (area 1191.86 hectares) and Pobitora Reserve Forest (area 1584.76 hectares) and government land (area 1104 hectare). The said area was declared as wildlife Sanctuary by the Government of Assam's notification dated 17.03.1998. Proposed eco-sensitive zone of Pobitora Wildlife Sanctuary includes an extent area of one kilometer radius from the periphery of wildlife sanctuary as also Intermediate States between the above Reserve Forest and government land. Industries enlisted by Range Officer, Pobitora Wildlife Range are situated within the said proposed eco sensitive zone of Pobitora Wildlife Sanctuary. Divisional Forest Officer had requested Chairman Assam State Pollution Control Board to take appropriate action in the matter.

6. It does not appear from record that any effective action has been taken in the matter and as per complaint said industries are still operating in questioned area.

7. Tribunal after considering above complaint, found it appropriate to obtain factual report for which constituted a Joint Committee comprising representative of Secretary, Ministry of Environment Forest and Climate Change, New Delhi; Member Secretary, Assam State Pollution Control Board; representative of Central Pollution Control Board; and Principal Chief Conservator of Forest, Wildlife, Assam.

8. Central Pollution Control Board was made Nodal Agency for co-ordination and compliance. However, no report has been submitted.

9. In the circumstances, we direct above Joint Committee to submit report within one month, failing which, all the members of Joint Committee shall appear before Tribunal.

10. List on 05.11.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

October 04, 2024
Original Application No. 808/2024
AB



Pollution Control Board, Assam

(Department of Environment & Forests, Government of Assam)

অসম প্রদূষণ নিয়ন্ত্রণ পৰিষদ

(অসম চৰকাৰৰ বন আৰু পৰিৱেশ বিভাগ)

NABL Accredited Testing Laboratory : Certificate No. TC-11384

Annexure-III



Lifestyle for Environment

No.WB/RONG/T-11/11-12/579

Dated Guwahati, the 21st March, 2024

'CONSENT TO OPERATE'

'Consent to Operate' (CTO), under Section 21 of Air (Prevention & Control of Pollution) Act, 198, as amended and Rules framed thereunder, is granted to:

- Name of unit : M/s Bhawani Bricks (B B A Brick).
- Name of the Occupier / Applicant and Designation : Dilip Chetri, Proprietor.
- Address of the unit : Vill: Chengmari Kisam, Mayong, Dist: Morigaon, Assam-782411.
- Cost of the project : Rs. 20.00 Lakhs
- Type and category of the project : Brick Kiln (Orange Category)
- Details of Product :

Sl. No.	Products	Quantity
1.	Bricks	5,00,000 Numbers / Round

TERMS AND CONDITIONS:

- The applicant shall adopt only zig-zag technology for the production of brick as per the notification issued by MoEF & CC, GOI vide G.S.R.143 (E). dtd.22.02.2022.
- The Consent to Operate (CTO) has been accorded based on the particulars furnished by the applicant vide Application ID: 2592872 and subject to addition of further or more conditions if so warranted by subsequent developments. The CTO will automatically become invalid if there is any a change, modification, alteration, expansion or deviation made in actual practice.
- The Consent to Operate is valid for a period up to 30.06.2024. The unit has paid CTO fees up to 31.03.2025. The Board has taken resolution to renew CTO for Brick Kilns up to 30th June of a particular year after receiving CTO fee for the preceding Financial Year.
- The CTO may be modified, suspended or revoked by the Board in whole or in part during its term for cause including, but not limited to the following:-
 - Violation of any Terms and Conditions of this CTO;
 - Obtaining the CTO by misrepresentation or failure to disclose fully all relevant facts;
 - If any genuine complaint received.
- The unit shall obtain prior 'Consent to Establish' from the Board for any further expansion, alteration, modification, modernization of the project.
- The project authority shall install a Display Board as per the Board's notification no. PCBA/LGL-95/2021/Notification/01 dtd.11.11.2021 (Appendix-A)
- Proper housekeeping shall be maintained. The unit shall not burn any waste within the premises.
- As per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, as amended, and the Air (Prevention and Control of Pollution) Act, 1981, as amended, any Officer empowered by the Board on its behalf shall have without interruption, the right at any reasonable time to enter the unit for inspection, collection of sample for analysis and may call for any information as deemed necessary. Denial of this right will cause withdrawal of the CTO.

Contd..p/2



9. The unit shall apply for renewal at least 90 (ninety) days before expiry of the validity of this CTO.

10. The project proponent shall develop a greenbelt/plantation area with native trees covering at least 33% of the total plot area.

Specific Conditions:

A. Air Aspect:

1. Chimney details:

Stack height	H- 30 m
--------------	---------

2. The unit shall comply with the provisions of Notifications issued by MoEF & CC, GOI vide G.S.R.143 (E), dtd.22.02.2022 as mentioned herein under:-

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

i) All brick kilns shall use only approved fuel such as Piped Natural Gas, coal, fire wood and/or agricultural residues. Use of pet coke, tyres, plastic, hazardous waste shall not be allowed in brick kilns.

ii) Brick kilns shall construct permanent facility (port hole and platform) as per the norms or design laid by the CPCB for monitoring of emissions.

iii) Particulate Matter (PM) results shall be normalized at 4% CO₂ as below:

PM (normalized) = {PM (measured) x 4%/ (% of CO₂ measured in stack), no normalization in case Q is SO₂ emission rate in kg/hr), and maximum of two shall apply.

iv) Brick kilns shall follow process emission/fugitive dust emission control guidelines as prescribed by Pollution Control Board, Assam time to time.

v) The ash generated in the brick kiln shall be fully utilized in-house in brick making.

vi) All necessary approvals from the concerned authorities including mining department shall be obtained for extracting the soil to be used for brick making in the brick kiln.

vii) The brick kiln owner shall ensure that the road utilized for transporting raw materials or bricks are paved roads.

viii) Vehicles shall be covered during transportation of raw materials/bricks.

3. Coal shall be stored under shed.

4. The unit shall comply with ambient noise level standard, notified by MoEF & CC, GOI vide GSR 7 dated Dec.22, 1998, as mentioned herein under;

Limit in dB (A) Leq	
Day Time (6:00am-10:00pm)	Night Time (10:00pm-6:00am)
75	70

5. The unit shall ensure that fugitive emissions from its activities are controlled in and around the factory premises by adequate sprinkling of water.

6. The unit shall install permanent monitoring platform with proper monitoring facilities as per CPCB Guideline for Emission Regulation Part-III (**Appendix-B**).



B. Water Aspects:

1. i) Source of Water(Ground/Surface): Groundwater.
ii) Water Consumption: 3.5 KLD
2. Permission/Exemption of the Central Ground Water Authority shall be obtained for extraction of Ground Water, as applicable.
3. Rain water harvesting facility shall be installed and maintained.
4. i) Storm water shall not be allowed to mix with effluent and/or floor washing.
ii) Storm water within the battery limit shall be channelized through separate drain/pipe passing through an oil and grease catch pit cum sedimentation tank.
iii) For storm water discharge, the unit shall comply with general effluent discharge standard, notified by MoEF&CC, Govt. of India vide GSR.422 (E) dated.19.05.1993, as **Appendix- C**.

C. Solid Waste Aspects:

1. Adequate facility should be created for collection, storage, transportation, treatment & disposal of non-hazardous solid waste generated from the unit.
2. Adequate system should be adopted on reduction of waste generation and enhancement of re-utilization & recycling of waste materials.
3. The unit shall strictly comply with all the provisions of the Solid Waste Management Rules, 2016.

The unit shall submit compliance report of the mandated conditions by April 15 every year to Member Secretary, PCBA as well as to the concerned Regional Office of the Board. The Board will have the liberty to withdraw the CTO if adequate pollution control and safety measures are not implemented.

Sd/-
(Shantanu Kr. Dutta)
Member Secretary

Memo No. WB/RONG/T-11/11-12/579-A
Copy to: *3792*

Dated Guwahati, the 21st March, 2024

M/s Bhawani Bricks (B B A Brick), Vill: Chengmari Kisam, Mayong, Dist: Morigaon, Assam-782411, for information and compliance of conditions.

Mr. S. K. Dutta
(Shantanu Kr. Dutta)
Member Secretary



**Pollution Control Board, Assam
Bamunimaidam, Guwahati-21**



NOTIFICATION

No. PCBA/LGL-95/2021/Notification/01

Dated Guwahati, the 11th Nov, 2021

In exercise of the powers conferred under Section-5 of the Environment (Protection) Act, 1986 as amended till date and keeping in view the need of public interest towards dissemination of vital information regarding Consent/Authorization of this Board, all industries are hereby directed to install a Display Board of minimum size 5'x4', near the main entrance gate.

The format of the display board is given below:

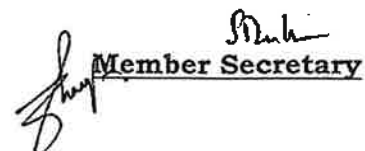
Name and Address of the Unit : M/s.	
Description of Consent/Authorization	Details
Consent to Establish (CTE)	No.: Date of Issue:
Consent to Operate (CTO)	No.: Date of validity:
Authorization under Hazardous & Other waste (Management & Transboundary Movement) Rules, 2016 (if applicable)	No.: Date of Issue: Date of validity:

1
Member Secretary

Memo No. PCBA/LGL-95/2021/Notification/01-A
Copy to:

Dated Guwahati, the 11th Nov, 2021

1. The Commissioner & Secretary to the Govt. of Assam, Department of Environment & Forest, Dispur for kind information.
2. P.A. to the Chairman, PCBA for kind appraisal of the Hon'ble Chairman.
3. The All Regional Heads, PCBA for information & necessary action.
4. M/S APS Advertising Pvt. Ltd, Guwahati-1. They are requested to publish the "NOTICE" in "the Assam Tribune" and "Dainandini Barta" on 12.11.2021.
5. Notice Board, Head Office / Website (www.pcbassam.org), PCBA.


Member Secretary

Location of sampling port as per CPCB's emission regulation guideline part-III

-18-



2.5.0 Location of Sampling Port

To ensure laminar flow the sampling ports shall be located at atleast 8 times chimney diameter down stream and 2 times up stream from any flow disturbance. For a rectangular cross section the equivalent diameter (D_e) shall be calculated from the following equation to determine up stream, down stream distances.

$$D_e = \frac{2LW}{L+W}$$

Where L = Length in m, W = width in m.

Sometimes it may so happen for existing chimneys that sufficient physical chimney height is not available for desired sampling location in such cases additional traverse points shall be taken as given under 2.4.0.

The sampling port should be preferably provided on the delivery side of duct or chimney and not on the suction side.

Ω

General Standards for discharge of environment Pollutants Part-A: Effluents



S. No.	Parameter	Standards			
		Inland surface water	public Sewers	Land Irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
1	Color and Odor	5 to 25 Agreeable	-	5 to 25 Agreeable	5 to 25 Agreeable
2	Suspended Solids mg/l, Max.	100	600	200	(a) For process waste water-100 (b) For Cooling water effluent 10 percent above total suspended matter of influent
3	Particular size of suspended solids	Shall pass 850 micron IS Sieve	-	-	(a) Floatable solids, max. 3 mm (b) Settleable solids, max 850 microns
4*	---	-	-	---	-
5	pH value	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0
6	Temperature	Shall not exceed 5°C above the receiving water temperature	-	-	Shall not exceed 5°C above the receiving water temperature
7	Oil and grease mg/L Max	10	20	10	20
8	Total residual chlorine mg/1, Max	1.0	-	-	1.0
9	Ammonical nitrogen (as N), mg/1 max.	50	50	-	50
1. Schedule VI inserted by Rule 2(d) of the Environment (Protection) Second Ammdment Rules,1993 notified vide G.S.R.422 (E) dated 19.05.1993, published in the Gazettee No.174 dated 19.05.1993.					
10	Total Kjeldhal nitrogen (as NH ₃) mg/l, Max	100	-	-	100
11	Free Ammonia (as NH ₃) mg/1, Max	5.0	-	-	5.0
12	Biochemical oxygen demand (5 days at 20°C), mg/1 Max)	30	350	100	100
13	Chemical Oxygen demand, mg/1 Max	250	-	-	250
14	Arsenic (as As) mg/1 Max	0.2	0.2	0.2	0.2
15	Mercury (As Hg), mg/1 max)	0.01	0.01	-	0.01
16	Lead (as Pb) mg/L, Max	0.1	1.0	-	2.0
17	Cadmium (as Cd) mg/1, Max	2.0	1.0	-	2.0

Contd...P/2



-2-

18	Hexavalent chromium, (as Cr) mg/l, Max	0.1	2.0	-	1.0
19	Total chromium (as Cr) mg/l, Max	2.0	2.0	-	2.0
20	Copper (as Cu)g/l, Max	3.0	3.0	-	3.0
21	Zinc (as Zn) mg/l,Max	5.0	15	-	15
22	Selenium (as Se) mg/l, Max	0.05	0.05	-	0.05
23	Nickel (as Ni) mg/l,Max	3.0	3.0	-	5.0
24*	-	-	-	-	-
25*	-	-	-	-	-
26	-	-	-	-	-
27	Cyanide (as CN), mg/l Max	0.2	2.0	0.2	0.2
28*	-	-	-	-	-
29	Fluoride (as F) mg/l Max	2.0	15	-	15
30	Dissolved Phosphates (as p), mg/l Max	5.0	-	-	-
31*	-	-	-	-	-
32	Sulphide (as S) mg/l Max	2.0	-	-	5.0
33	Phenolic Compounds (as C ₆ H ₅ OH) mg/l Max	1.0	5.0	-	5.0
34	Radioactive materials:				
	(a)Alpha emitter micro curle/ml	10 ⁻⁷	10 ⁻⁷	10 ⁻⁸	10 ⁻⁷
	(b) Beta emitter micro curle/ml)	10 ⁻⁶	10 ⁻⁶	10 ⁻⁷	10 ⁻⁶
35	Bio-assay test	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent
36	Manganese (as Mn)	2 mg/l	2 mg/l	-	2 mg/l
37	Iron (as Fe)	3 mg/l	3 mg/l	-	3 mg/l
38	Vanadium (asV)	0.2 mg/l	0.2 mg/l	-	0.2 mg/l
39	Nitrate Nitrogen	10 mg/l	-	-	20 mg/l
40	-	-	-	-	-

* Omitted by Rule 2 (d) (i) of the Environment (Protection) Third Amendment Rules, 1993 vide Notification No. G.S.R 801 (E) dated 31.12.1993

mr. j. s. s.



**Pollution Control Board:: Assam
Bamunimaadam, Guwahati-21**

PUBLIC NOTICE

No. WB/G-295/21-22/317

Dated Guwahati, the 08th December, 2023

Attention to all Brick Kiln Owners in the State of Assam

As per the Govt. of India Notification vide G.S.R. 143 (E) dtd. 22.02.2022, all the Brick Kilns in the State need to be converted to Zig-Zag or Vertical Shaft Technology within two (2) years of the Notification i.e. on or before 21.02.2024. All existing industries in the State are directed to adopt the provisions of this Notification within the given date. New Brick Kilns will only be allowed to be established in the State in compliance of the siting criteria and other standards mentioned in the said Notification.

The existing Units are exempted from payment of Consent to Establish (CTE) fee for converting into Zig-Zag Technology and all these Units shall be liable to pay CTO fee as applicable against the enhanced project cost, for obtaining the mandatory CTO under the provisions of the Water Act, 1974 and Air Act, 1981. The Units, which need to produce the CTE order for availing Bank Loans, shall apply for the CTE in the OCMMS portal of consent mechanism of the Board alongwith CTE modification fee, as applicable.

/

(Shantanu Kr. Dutta)
Member Secretary

Memo No. WB/G-295/21-22/317-A,

Dated Guwahati, the 08th December, 2023

Copy to:

1. The all Regional Heads, ROs, PCBA.
2. The EITO, IT Section, PCBA – to upload the Public Notice in the Board's website.
3. P.A. to the Chairman, PCBA for kind appraisal of the Hon'ble Chairman.
4. ✓ WhatsApp (Parivesh Asom group)/Website/Social Media Platform of PCBA.

MF 21 12 23

Member Secretary

**ABNS SCIENTIFIC SERVICES**

এবিএনএস চাইন্টিফিক সার্ভিসেস
एबीएनएस साइंटिफीक सर्विसेज

H-152, Keteki Path, near Radisson Blu, NH 27, Guwahati 781033, Assam

केतेकी पथ, रैडिसन ब्लू के पास, एन एच २७, गुवाहाटी ७८१०३३, असम

Email: info@abnsscientific.com, abnsscientific@gmail.com

Phone: 98640 68513, 98640 89951

TEST REPORT: STACK EMISSION MONITORING:

Report No: ABNS/BRICK/032924/08	Date: 29/03/2024
Name & Address of Customer: M/S BHAWANI BRICKS Prop: Mr. Dilip Chetri Vill: Chengmari Kisam; Mayong Dist: Morigaon, Assam-782411	<i>Ref.: ABNS/ Brick/Mg/2023-24/SEAR308</i> Date of Sampling: 25/03/2024 Analysis Start Date: 25/03/2024 Analysis End Date: 28/03/2024
Stack Attached to	Brick Kiln
Stack Height	90 (Feet)
Kiln Category	Medium
Protocol	IS. 11255
Sample Collected by:	ABNS Scientific Services

TEST RESULTS

S/N	PARAMETERS	RESULTS	Reference Method
1	Temperature of Flue Gas ($^{\circ}\text{C}$)	92	IS 11255(part -3)1985
2	Average Flue Gas Velocity (m/sec)	5.96	IS 11255(part -3)1985
3	Total Particulate Matter (mg/Nm^3)	248.0	IS 11255(part -I)1985
4	Sulphur Dioxide (mg/Nm^3)	64.0	IS 1255 (Part II)
5	Nitrogen Oxides (mg/Nm^3)	38.4	IS 1255 (Part VII); 2005
Limits:			
	Kiln Category	Production Capacity (Prsrb. Std.)	PM Limits (mg/Nm^3)
	<i>Small</i>	<15000	1000
	<i>Medium</i>	15000-30000	7.50
	<i>Large</i>	>30000	7.50

Note : The Parameters are within permissible limit. All the physical data of the brick kiln are provided by customer.

Report reviewed By: Dr. Mayur Jyoti Mahanta (QM)



[Signature]
29/03/2024

Authorized Signatory
ABNS Scientific Services



Pollution Control Board, Assam
(Department of Environment & Forests, Government of Assam)

অসম প্ৰদূষণ নিয়ন্ত্ৰণ পৰিষদ

(অসম চৰকাৰৰ বন আৰু পৰিৱেশ বিভাগ)

NABL Accredited Testing Laboratory : Certificate No. TC-11384



No. PCBA/GUW/T-4736/24-25/18

Dated Guwahati, the 24th June, 2024

CONSENT TO OPERATE

'CONSENT TO OPERATE' (CTO), under Section 21 of Air (Prevention & Control of Pollution) Act, 198, as amended and Rules framed thereunder, is granted to:

- i) Name of the Unit : M/s. BBD Brick Industry.
 ii) Name of the Applicant and Designation : Sri Bipul Malakar, Proprietor.
 iii) Address of the Unit : Govali, Dhekiabari, Dist- Kamrup (M), Assam-782401.
 iv) Cost of the Unit : Rs. 76.94 Lakhs
 v) Type/Category of the Unit : Brick Kiln with Zig-zag Technology. (Orange Category)
 vi) Details of Product :



Sl. No.	Products	Quantity (Numbers/year)
1.	Clay Bricks	20,00,000

TERMS AND CONDITIONS:

- The Consent to Operate (CTO) has been accorded based on the particulars furnished by the applicant vide CCA Application ID: 2652920 and subject to addition of further or more conditions if so warranted by subsequent developments. The CTO will automatically become invalid if there is any a change, modification, alteration, expansion or deviation is made in actual practice.
- The CTO is valid for a period up to 31.03.2029.
- The CTO may be modified, suspended or revoked by the Board in whole or in part during its term for cause including, but not limited to the following:-
 - Violation of any Terms and Conditions of this CTO;
 - Obtaining the CTO by misrepresentation or failure to disclose fully all relevant facts;
 - If any genuine complaint received.
- The unit shall obtain prior 'Consent to Establish' from the Board for any further expansion, alteration, modification, modernization of the project.
- The unit shall install a Display Board as per the Board's notification no. PCBA/LGL-95/2021/Notification/01 dtd.11.11.2021 (Appendix-A)
- Proper housekeeping shall be maintained. **The unit shall not burn any waste within the premises.**
- As per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, as amended, and the Air (Prevention and Control of Pollution) Act, 1981, as amended, any Officer empowered by the Board on its behalf shall have without interruption, the right at any reasonable time to enter the unit for inspection, collection of sample for analysis and may call for any information as deemed necessary. Denial of this right will cause withdrawal of the CTO.
- The unit shall apply for renewal atleast ninety (90) before expiry of the validity of this CTO.

Specific Conditions:

A. Air Aspect:

- Fuel and Stack details:

Fuel	Coal-300 MT/year
Stack details	H-35 m



2. The unit shall strictly comply with the guidelines issued by the MoEF & CC, GOI vide G.S.R.143 (E), dtd.22.02.2022 as mentioned herein under:-

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

- i) All brick kilns shall use only approved fuel such as Piped Natural Gas, coal, fire wood and/or agricultural residues. Use of pet coke, tyres, plastic, hazardous waste shall not be allowed in brick kilns.
 - ii) Brick kilns shall construct permanent facility (port hole and platform) as per the norms or design laid by the CPCB for monitoring of emissions.
 - iii) Particulate Matter (PM) results shall be normalized at 4% CO₂ as below:
 - iv) PM (normalized) = {PM (measured) x 4%/ (% of CO₂ measured in stack)}, no normalization in case CO₂ measured ≥ 4%. Stack height (in meter) shall also be calculated by formula $H = 14Q^{0.3}$ (where Q is SO₂ emission rate in kg/hr), and maximum of two shall apply.
 - v) Brick kilns shall follow process emission/fugitive dust emission control guidelines as prescribed by Pollution Control Board, Assam time to time.
 - vi) The ash generated in the brick kiln shall be fully utilized in-house in brick making.
 - vii) All necessary approvals from the concerned authorities including mining department shall be obtained for extracting the soil to be used for brick making in the brick kiln.
 - viii) The brick kiln owner shall ensure that the road utilized for transporting raw materials or bricks are paved roads.
 - ix) Vehicles shall be covered during transportation of raw materials/bricks.
3. **Coal shall be stored under shed.**
4. The unit shall comply with ambient noise level standard, notified by MoEF & CC, GOI vide GSR 7 dated Dec.22, 1998, as mentioned herein under;

Limit in dB (A) Leq	
Day Time (6:00am-10:00pm)	Night Time (10:00pm-6:00am)
75	70

5. The unit shall ensure that fugitive emissions from its activities are controlled in and around the factory premises by adequate sprinkling of water.
6. The unit shall install permanent monitoring platform with proper monitoring facilities as per **CPCB Guideline for Emission Regulation Part-III (Appendix-B)**.

B. Water Aspects:

1. Source of Water(Ground/Surface) : Ground Water
2. i) Water Consumption : 4.5 KLD
iii) Permission/Exemption of CGWA : Not obtained
3. Permission/Exemption from the Central Ground Water Authority shall be obtained for extraction of Ground Water, as applicable.
4. i) Storm water shall not be allowed to mix with effluent, if any.
ii) Storm water within the battery limit shall be channelized through separate drain/pipe passing through an oil and grease catch pit cum sedimentation tank.
iii) For discharge of storm water, the unit shall comply with general effluent discharge standard, notified by MoEF&CC, Govt. of India vide GSR.422 (E) dated.19.05.1993 (Appendix- C).
5. Rain water harvesting facility shall be installed and maintained.

**C. Solid Waste Aspects:**

1. Adequate facility shall be created for collection, storage, transportation, treatment and disposal of non-hazardous solid waste generated from the unit.
2. Adequate system shall be adopted on reduction of waste generation and enhancement of re-utilization and recycling of waste materials.
3. The unit shall strictly comply with all the provisions of the Solid Waste Management Rules, 2016.

The unit shall submit compliance report of the mandated conditions by April 15 every year to Member Secretary, PCBA as well as to the concerned Regional Office of the Board. The Board will have the liberty to withdraw the CTO, if adequate pollution control and safety measures are not implemented.

(Shantanu Kr. Dutta)
Member Secretary

Memo No. PCBA/GUW/T-4736/24-25/18-A

Dated Guwahati, the 24th June, 2024

Copy to:

✓ M/s. BBD Brick Industry, Govali, Dhekiabari, Dist- Kamrup (M), Assam-782401 for information and compliance of conditions.

(Shantanu Kr. Dutta)
Member Secretary



**Pollution Control Board, Assam
Bamunimaidam, Guwahati-21**

Appendix-A



NOTIFICATION

No. PCBA/LGL-95/2021/Notification/01

Dated Guwahati, the 11th Nov, 2021

In exercise of the powers conferred under Section-5 of the Environment (Protection) Act, 1986 as amended till date and keeping in view the need of public interest towards dissemination of vital information regarding Consent/Authorization of this Board, all industries are hereby directed to install a Display Board of minimum size 5'x4', near the main entrance gate.

The format of the display board is given below:

Name and Address of the Unit : M/s.	
Description of Consent/Authorization	Details
Consent to Establish (CTE)	No.: Date of Issue:
Consent to Operate (CTO)	No.: Date of validity:
Authorization under Hazardous & Other waste (Management & Transboundary Movement) Rules, 2016 (if applicable)	No.: Date of Issue: Date of validity:


|
Member Secretary

Memo No. PCBA/LGL-95/2021/Notification/01-A

Dated Guwahati, the 11th Nov, 2021

Copy to:

1. The Commissioner & Secretary to the Govt. of Assam, Department of Environment & Forest, Dispur for kind information.
2. P.A. to the Chairman, PCBA for kind appraisal of the Hon'ble Chairman.
3. The All Regional Heads, PCBA for information & necessary action.
4. M/S APS Advertising Pvt. Ltd, Guwahati-1. They are requested to publish the "NOTICE" in "the Assam Tribune" and "Dainandini Barta" on 12.11.2021.
5. Notice Board, Head Office / Website (www.pcbassam.org), PCBA.


Member Secretary

Location of sampling port as per CPCB's emission regulation guideline part-III.

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2.5.0 Location of Sampling Port

To ensure laminar flow the sampling ports shall be located at atleast 8 times chimney diameter down stream and 2 times up stream from any flow disturbance. For a rectangular cross section the equivalent diameter (D_e) shall be calculated from the following equation to determine up stream, down stream distances.

$$D_e = \frac{2LW}{L+W}$$

Where L = Length in m, W = width in m.

Sometimes it may so happen for existing chimneys that sufficient physical chimney height is not available for desired sampling location in such cases additional traverse points shall be taken as given under 2.4.0.

The sampling port should be preferably provided on the delivery side of duct or chimney and not on the suction side.

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**¹[SCHEDULE – VI]**

(See rule 3A)

GENERAL STANDARDS FOR DISCHARGE OF ENVIRONMENTAL POLLUTANTS PART-A: EFFLUENTS

S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
1.	Colour and odour	See 6 of Annexure-I	--	See 6 of Annexure -I	See 6 of Annexure-I
2.	Suspended solids mg/l, Max.	100	600	200	(a) For process waste water- 100 (b) For cooling water effluent 10 percent above total suspended matter of influent.
3.	Particulate size of suspended solids	Shall pass 850 micron IS Sieve	--	--	(a) Floatable solids, max. 3 mm. (b) Settleable solids, max. 850 microns.
²⁴ .	***	*	--	***	--
5.	pH Value	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0
6.	Temperature	shall not exceed 5°C above the receiving water temperature	--	--	shall not exceed 5°C above the receiving water temperature

¹ Schedule VI inserted by Rule 2(d) of the Environment (Protection) Second Amendment Rules, 1993 notified vide G.S.R. 422(E) dated 19.05.1993, published in the Gazette No. 174 dated 19.05.1993.

² Omitted by Rule 2(d)(i) of the Environment (Protection) Third Amendment Rules, 1993 vide Notification No.G.S.R.801(E), dated 31.12.1993.



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The Environment (Protection) Rules, 1986

S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
7.	Oil and grease mg/l Max.	10	20	10	20
8.	Total residual chlorine mg/l Max.	1.0	--	--	1.0
9.	Ammonical nitrogen (as N), mg/l Max.	50	50	--	50
10.	Total Kjeldahl Nitrogen (as NH ₃) mg/l, Max.	100	--	--	100
11.	Free ammonia (as NH ₃) mg/l, Max.	5.0	--	--	5.0
12.	Biochemical Oxygen demand ¹ [3 days at 27°C] mg/l max.	30	350	100	100
13.	Chemical Oxygen Demand, mg/l, max.	250	--	--	250
14.	Arsenic (as As), mg/l, max.	0.2	0.2	0.2	0.2
15.	Mercury (as Hg), mg/l, Max.	0.01	0.01	--	0.01
16.	Lead (as Pb) mg/l, Max.	0.1	1.0	--	2.0
17.	Cadmium (as Cd) mg/l, Max.	2.0	1.0	--	2.0
18.	Hexavalent Chromium (as Cr+6), mg/l max.	0.1	2.0	--	1.0

¹ Substituted by Rule 2 of the Environment (Protection) Amendment Rules, 1996 notified by G.S.R. 176, dated 2.4.1996 may be read as BOD (3 days at 27°C) wherever BOD 5 days 20°C occurred.

The Environment (Protection) Rules, 1986



S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
19.	Total chromium (as Cr.) mg/l, Max.	2.0	2.0	--	2.0
20.	Copper (as Cu) mg/l, Max.	3.0	3.0	--	3.0
21.	Zinc (As Zn.) mg/l, Max.	5.0	15	--	15
22.	Selenium (as Se.) mg/l, Max.	0.05	0.05	--	0.05
23.	Nickel (as Ni) mg/l, Max.	3.0	3.0	--	5.0
¹ 24.	***	*	*	*	*
¹ 25.	***	*	*	*	*
¹ 26.	***	*	*	*	*
27.	Cyanide (as CN) mg/l Max.	0.2	2.0	0.2	0.2
¹ 28.	***	*	*	*	*
29.	Fluoride (as F) mg/l Max.	2.0	15	--	15
30.	Dissolved Phosphates (as P), mg/l Max.	5.0	--	--	--
² 31.	***	*	*	*	*
32.	Sulphide (as S) mg/l Max.	2.0	--	--	5.0
33.	Phenoile compounds (as C ₆ H ₅ OH) mg/l, Max.	1.0	5.0	--	5.0

¹ Omitted by Rule 2(d)(i) of the Environment (Protection) Third Amendment Rules, 1993 vide Notification No.G.S.R.801(E), dated 31.12.1993.



The Environment (Protection) Rules, 1986

S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
34.	Radioactive materials :				
	(a) Alpha emitter micro curie/ml.	10^{-7}	10^{-7}	10^{-8}	10^{-7}
	(b) Beta emitter micro curie/ml.	10^{-6}	10^{-6}	10^{-7}	10^{-6}
35.	Bio-assay test	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent
36.	Manganese (as Mn)	2 mg/l	2 mg/l	--	2 mg/l
37.	Iron (as Fe)	3 mg/l	3 mg/l	--	3 mg/l
38.	Vanadium (as V)	0.2 mg/l	0.2 mg/l	--	0.2 mg/l
39.	Nitrate Nitrogen	10 mg/l	--	--	20 mg/l
40.	***	*	*	*	*

mg/l

¹ Omitted by Rule 2(d)(i) of the Environment (Protection) Third Amendment Rules, 1993 vide Notification No. G.S.R. 801(E) dated 31.12.1993



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Pollution Control Board, Assam
(Department of Environment & Forests, Government of Assam)

অসম প্রদূষণ নিয়ন্ত্রণ পৰিষদ
(অসম চৰকাৰৰ বন আৰু পৰিৱেশ বিভাগ)

NABL Accredited Testing Laboratory : Certificate No. TC-11384



LIFE
Lifestyle for
Environment

No. PCBA/GUW/T-4699/23-24/18

Dated Guwahati, the 14th March, 2024

CONSENT TO OPERATE

'CONSENT TO OPERATE' (CTO), under Section 21 of Air (Prevention & Control of Pollution) Act, 198, as amended and Rules framed thereunder, is granted to:

- i) Name of the Unit : M/s. BBD Bricks Industries Unit-II.
- ii) Name of the Applicant and Designation : Sri Bipul Malakar, Proprietor.
- iii) Address of the Unit : Mayong, Dhekiabari, Gavali, Dist- Kamrup (M), Assam-782401.
- iv) Cost of the Unit : Rs. 21 Lakhs
- v) Type/Category of the Unit : Brick Kiln
(Orange Category)
- vi) Details of Product :

Sl. No.	Products	Quantity (Numbers/Round)
1.	Clay Bricks	5,00,000

TERMS AND CONDITIONS:

1. The applicant shall adopt only zig-zag technology or vertical shaft for the production of brick as per the notification issued by MoEF&CC, GOI vide G.S.R.143 (E), dtd. 22.02.2022.
2. The Consent to Operate (CTO) has been accorded based on the particulars furnished by the applicant vide Application ID: 2456362 and subject to addition of further or more conditions if so warranted by subsequent developments. The CTO will automatically become invalid if there is any a change, modification, alteration, expansion or deviation is made in actual practice.
3. The CTO is valid for a period up to 30.06.2025. The unit has paid CTO fee up to 31.03.2025. The Board has taken resolution to renew CTO for Brick Kilns till 30th June of a particular year after receiving the CTO fee for the preceding Financial Year.
4. The CTO may be modified, suspended or revoked by the Board in whole or in part during its term for cause including, but not limited to the following:-
 - a) Violation of any Terms and Conditions of this CTO;
 - b) Obtaining the CTO by misrepresentation or failure to disclose fully all relevant facts;
 - c) If any genuine complaint received.
5. The unit shall obtain prior 'Consent to Establish' from the Board for any further expansion, alteration, modification, modernization of the project.
6. The unit shall install a Display Board as per the Board's notification no. PCBA/LGL-95/2021/Notification/01 dtd.11.11.2021 (Appendix-A)
7. Proper housekeeping shall be maintained. **The unit shall not burn any waste within the premises.**
8. As per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, as amended, and the Air (Prevention and Control of Pollution) Act, 1981, as amended, any Officer empowered by the Board on its behalf shall have without interruption, the right at any reasonable time to enter the unit for inspection, collection of sample for analysis and may call for any information as deemed necessary. Denial of this right will cause withdrawal of the CTO.
9. The unit shall apply for renewal atleast ninety (90) before expiry of the validity of this CTO.

Specific Conditions:**A. Air Aspect:**

1. Fuel and Stack details:

Fuel	Coal 87.5 MT/round
Stack details	H-30 m

2. The unit shall strictly comply with the guidelines issued by the MoEF & CC, GOI vide G.S.R.143 (E), dtd.22.02.2022 as mentioned herein under:-

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

- i) All brick kilns shall use only approved fuel such as Piped Natural Gas, coal, fire wood and/or agricultural residues. Use of pet coke, tyres, plastic, hazardous waste shall not be allowed in brick kilns.
 - ii) Brick kilns shall construct permanent facility (port hole and platform) as per the norms or design laid by the CPCB for monitoring of emissions.
 - iii) Particulate Matter (PM) results shall be normalized at 4% CO₂ as below:
 - iv) PM (normalized) = {PM (measured) x 4%/ (% of CO₂ measured in stack)}, no normalization in case CO₂ measured \geq 4%. Stack height (in meter) shall also be calculated by formula $H = 14Q^{0.3}$ (where Q is SO₂ emission rate in kg/hr), and maximum of two shall apply.
 - v) Brick kilns shall follow process emission/fugitive dust emission control guidelines as prescribed by Pollution Control Board, Assam time to time.
 - vi) The ash generated in the brick kiln shall be fully utilized in-house in brick making.
 - vii) All necessary approvals from the concerned authorities including mining department shall be obtained for extracting the soil to be used for brick making in the brick kiln.
 - viii) The brick kiln owner shall ensure that the road utilized for transporting raw materials or bricks are paved roads.
 - ix) Vehicles shall be covered during transportation of raw materials/bricks.
3. **Coal shall be stored under shed.**
4. The unit shall comply with ambient noise level standard, notified by MoEF & CC, GOI vide GSR 7 dated Dec.22, 1998, as mentioned herein under;

Limit in dB (A) Leq	
Day Time (6:00am-10:00pm)	Night Time (10:00pm-6:00am)
75	70

5. The unit shall ensure that fugitive emissions from its activities are controlled in and around the factory premises by adequate sprinkling of water.
6. The unit shall install permanent monitoring platform with proper monitoring facilities as per **CPCB Guideline for Emission Regulation Part-III (Appendix-B)**.

B. Water Aspects:

1. Source of Water(Ground/Surface) : Ground Water
2. i) Water Consumption : 3 KLD
- iii) Permission/Exemption of CGWA : Not obtained
3. Permission/Exemption from the Central Ground Water Authority shall be obtained for extraction of Ground Water, as applicable.
4. i) Storm water shall not be allowed to mix with effluent, if any.
- ii) Storm water within the battery limit shall be channelized through separate drain/pipe passing through an oil and grease catch pit cum sedimentation tank.



- iii) For discharge of storm water, the unit shall comply with general effluent discharge standard, **notified by MoEF&CC, Govt. of India vide GSR.422 (E) dated.19.05.1993** (Appendix- C).
5. Rain water harvesting facility shall be installed and maintained.

C. Solid Waste Aspects:

1. Adequate facility shall be created for collection, storage, transportation, treatment and disposal of non-hazardous solid waste generated from the unit.
2. Adequate system shall be adopted on reduction of waste generation and enhancement of re-utilization and recycling of waste materials.
3. The unit shall strictly comply with all the provisions of the Solid Waste Management Rules, 2016.

The unit shall submit compliance report of the mandated conditions by April 15 every year to Member Secretary, PCBA as well as to the concerned Regional Office of the Board. The Board will have the liberty to withdraw the CTO, if adequate pollution control and safety measures are not implemented.

//
(Shantanu Kr. Dutta)
Member Secretary

Memo No. PCBA/GUW/T-4699/23-24/18-A

Dated Guwahati, the 14th March, 2024

Copy to:

✓ M/s. BBD Bricks Industries Unit-II, Mayong, Dhekiabari, Gavali, Dist- Kamrup (M), Assam-782401 for information and compliance of conditions.

Shantanu Kr. Dutta
(Shantanu Kr. Dutta)
Member Secretary



**Pollution Control Board, Assam
Bamunimaidam, Guwahati-21**

NOTIFICATION

Appendix-A



No. PCBA/LGL-95/2021/Notification/01

Dated Guwahati, the 11th Nov, 2021

In exercise of the powers conferred under Section-5 of the Environment (Protection) Act, 1986 as amended till date and keeping in view the need of public interest towards dissemination of vital information regarding Consent/Authorization of this Board, all industries are hereby directed to install a Display Board of minimum size 5'x4', near the main entrance gate.

The format of the display board is given below:

Name and Address of the Unit : M/s.	
Description of Consent/Authorization	Details
Consent to Establish (CTE)	No.: Date of Issue:
Consent to Operate (CTO)	No.: Date of validity:
Authorization under Hazardous & Other waste (Management & Transboundary Movement) Rules, 2016 (if applicable)	No.: Date of Issue: Date of validity:

1
Member Secretary

Memo No. PCBA/LGL-95/2021/Notification/01-A
Copy to:

Dated Guwahati, the 11th Nov, 2021

1. The Commissioner & Secretary to the Govt. of Assam, Department of Environment & Forest, Dispur for kind information.
2. P.A. to the Chairman, PCBA for kind appraisal of the Hon'ble Chairman.
3. The All Regional Heads, PCBA for information & necessary action.
4. M/S APS Advertising Pvt. Ltd, Guwahati-1. They are requested to publish the "NOTICE" in "the Assam Tribune" and "Dainandini Barta" on 12.11.2021.
5. Notice Board, Head Office / Website (www.pcbassam.org), PCBA.


Member Secretary



Location of sampling port as per CPCB's emission regulation guideline part-III

-18-

2.5.0 Location of Sampling Port

To ensure laminar flow the sampling ports shall be located at atleast 8 times chimney diameter down stream and 2 times up stream from any flow disturbance. For a rectangular cross section the equivalent diameter (D_e) shall be calculated from the following equation to determine up stream, down stream distances.

$$D_e = \frac{2LW}{L+W}$$

Where L = Length in m, W = width in m.

Sometimes it may so happen for existing chimneys that sufficient physical chimney height is not available for desired sampling location in such cases additional traverse points shall be taken as given under 2.4.0.

The sampling port should be preferably provided on the delivery side of duct or chimney and not on the suction side.

Ω

**1[SCHEDULE – VI]**

(See rule 3A)

GENERAL STANDARDS FOR DISCHARGE OF ENVIRONMENTAL POLLUTANTS PART-A: EFFLUENTS

S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
1.	Colour and odour	See 6 of Annexure-I	--	See 6 of Annexure-I	See 6 of Annexure-I
2.	Suspended solids mg/l, Max.	100	600	200	(a) For process waste water-100 (b) For cooling water effluent 10 percent above total suspended matter of influent.
3.	Particulate size of suspended solids	Shall pass 850 micron IS Sieve	--	--	(a) Floatable solids, max. 3 mm. (b) Settleable solids, max. 850 microns.
24.	***	*	--	***	--
5.	pH Value	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0
6.	Temperature	shall not exceed 5°C above the receiving water temperature	--	--	shall not exceed 5°C above the receiving water temperature

¹ Schedule VI inserted by Rule 2(d) of the Environment (Protection) Second Amendment Rules, 1993 notified vide G.S.R. 422(E) dated 19.05.1993, published in the Gazette No. 174 dated 19.05.1993.

² Omitted by Rule 2(d)(i) of the Environment (Protection) Third Amendment Rules, 1993 vide Notification No.G.S.R.801(E), dated 31.12.1993.



The Environment (Protection) Rules, 1986

S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
7.	Oil and grease mg/l Max.	10	20	10	20
8.	Total residual chlorin mg/l Max.	1.0	--	--	1.0
9.	Ammonical nitrogen (as N), mg/l Max.	50	50	--	50
10.	Total Kjeldahl Nitrogen (as NH ₃) mg/l, Max.	100	--	--	100
11.	Free ammonia (as NH ₃) mg/l, Max.	5.0	--	--	5.0
12.	Biochemical Oxygen demand ¹ [3 days at 27°C] mg/l max.	30	350	100	100
13.	Chemical Oxygen Demand, mg/l, max.	250	--	--	250
14.	Arsenic (as As), mg/l, max.	0.2	0.2	0.2	0.2
15.	Mercury (as Hg), mg/l, Max.	0.01	0.01	--	0.01
16.	Lead (as Pb) mg/l, Max.	0.1	1.0	--	2.0
17.	Cadmium (as Cd) mg/l, Max.	2.0	1.0	--	2.0
18.	Hexavalent Chromium (as Cr+6), mg/l max.	0.1	2.0	--	1.0

¹ Substituted by Rule 2 of the Environment (Protection) Amendment Rules, 1996 notified by G.S.R.176, dated 2.4.1996 may be read as BOD (3 days at 27°C) wherever BOD 5 days 20°C occurred.

The Environment (Protection) Rules, 1986



S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
19.	Total chromium (as Cr.) mg/l, Max.	2.0	2.0	--	2.0
20.	Copper (as Cu) mg/l, Max.	3.0	3.0	--	3.0
21.	Zinc (As Zn.) mg/l, Max.	5.0	15	--	15
22.	Selenium (as Se.) mg/l, Max.	0.05	0.05	--	0.05
23.	Nickel (as Ni) mg/l, Max.	3.0	3.0	--	5.0
24.	***	*	*	*	*
25.	***	*	*	*	*
26.	***	*	*	*	*
27.	Cyanide (as CN) mg/l Max.	0.2	2.0	0.2	0.2
28.	***	*	*	*	*
29.	Fluoride (as F) mg/l Max.	2.0	15	--	15
30.	Dissolved Phosphates (as P), mg/l Max.	5.0	--	--	--
231.	***	*	*	*	*
32.	Sulphide (as S) mg/l Max.	2.0	--	--	5.0
33.	Phenoile compounds (as C ₆ H ₅ OH) mg/l, Max.	1.0	5.0	--	5.0

¹ Omitted by Rule 2(d)(i) of the Environment (Protection) Third Amendment Rules, 1993 vide Notification No.G.S.R.801(E), dated 31.12.1993.



The Environment (Protection) Rules, 1986

S. No.	Parameter	Standards			
		Inland surface water	Public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	(c)	(d)
34.	Radioactive materials :				
	(a) Alpha emitter micro curie/ml.	10^{-7}	10^{-7}	10^{-8}	10^{-7}
	(b) Beta emitter micro curie/ml.	10^{-6}	10^{-6}	10^{-7}	10^{-6}
35.	Bio-assay test	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent
36.	Manganese (as Mn)	2 mg/l	2 mg/l	--	2 mg/l
37.	Iron (as Fe)	3 mg/l	3 mg/l	--	3 mg/l
38.	Vanadium (as V)	0.2 mg/l	0.2 mg/l	--	0.2 mg/l
39.	Nitrate Nitrogen	10 mg/l	--	--	20 mg/l
140.	***	*	*	*	*

mt 3/2 4/3

¹ Omitted by Rule 2(d)(i) of the Environment (Protection) Third Amendment Rules, 1993 vide Notification No. G.S.R. 801(E) dated 31.12.1993



Pollution Control Board, Assam

(Department of Environment & Forests, Government of Assam)

অসম প্রদূষণ নিয়ন্ত্রণ পৰিষদ

(অসম চৰকাৰৰ বন আৰু পৰিৱেশ বিভাগ)

NABL Accredited Testing Laboratory : Certificate No. TC-11384



No. PCBA/T-438/24-25/33

Dated Guwahati, the 03rd September, 2024

CONSENT TO OPERATE

'CONSENT TO OPERATE' (CTO), under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, as amended, and Rules framed there under, is granted to:

- i) Name of the unit : M/s Pashupati Nath Bricks.
- ii) Name of the Occupier / Applicant and Designation : Sri Santosh Newar, Proprietor
- iii) Address of the unit : Dhekibari, Govali ,P.O-Chandrapur, Dist: Kamrup(M), Assam, PIN: 781150
- iv) Project cost : Rs. 22.0 Lakhs
- v) Type of Project/Category : Bricks Manufacturing Unit (Orange Category)
- vi) Details of Product :

Sl. No.	Product	Quantity
1	Clay Bricks	20 Lakhs Nos./ Season

TERMS AND CONDITIONS:

- This CTO has been accorded based on the particulars furnished by the applicant vide Application ID: **2945756** and subject to addition of further more conditions, if so warranted by subsequent developments. The CTO will automatically become invalid, if there are any changes, modification, alteration, expansion or deviation made in actual practice.
- The CTO is valid till **31.03.2025**.
- The CTO may be modified, suspended in whole or in part or withdrawn by the Board during its term for cause including, but not limited to the following:-
 - Violation of any Terms and Conditions of this CTO;
 - Obtaining the CTO by misrepresentation or failure to disclose fully all relevant facts;
 - If any genuine complaint received;
- The unit shall obtain prior 'Consent to Establish' from the Board for any further expansion, alteration, modification, and modernization of the project.
- The project authority should install a Display Board as per the Boards notification no. PCBA/LGL-95/2021/Notification/01 dtd.11.11.2021 (**Appendix-A**).
- The applicant shall adopt only zig-zag technology or vertical shaft for the production of brick as per the notification issued by MoEF&CC, GOI vide G.S.R.143 (E), dtd. 22.02.2022.**

Contd...p/2



- The project proponent shall develop a greenbelt/plantation area with native trees covering at least 33% of the total plot area.
8. The unit shall apply for renewal of CTO atleast 90 days before expiry. The Board has decided to renew CTO for five (5) years, if the project proponent submits application with due payment of fees, for the entire period.
 9. Proper housekeeping has to be maintained. The unit shall not burn any waste in the unit premises.
 10. As per the provisions of the Water (Prevention and Control of Pollution) Act, 1974 as amended and the Air (Prevention and Control of Pollution) Act, 1981, as amended, any Officer, empowered by the Board on its behalf shall have without interruption, the right at any reasonable time to enter the unit for inspection, collection of sample for analysis and may call for any information as deemed necessary. Denial of this right will cause withdrawal of the Consent Order.
 11. The Unit shall abide by all the conditions mentioned in the Affidavit submitted by itself vide Affidavit dtd. (Enclosed herewith). Any violation detected in terms of non-compliance and submission of wrong information in the Affidavit shall lead to Closure of the Unit, Withdrawal of CTE/CCA and any other legal action, as deemed fit.

Specific Conditions:

A. Air Aspect:

1. Fuel and Chimney details:

Fuel	Coal 1.50 MTPD
Stack details	H-30m

2. The unit shall strictly comply with the guidelines issued by MoEF& CC, GOI vide G.S.R.143 (E), dtd.22.02.2022 as mentioned herein under:-

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

- i) All brick kilns shall use only approved fuel such as Piped Natural Gas, coal, fire wood and/or agricultural residues. Use of pet coke, tyres, plastic, hazardous waste shall not be allowed in brick kilns.
- ii) Brick kilns shall construct permanent facility (port hole and platform) as per the norms or design laid by the CPCB for monitoring of emissions.
- iii) Particulate Matter (PM) results shall be normalized at 4% CO₂ as below:
- iv) $PM \text{ (normalized)} = PM \text{ (measured)} \times 4\% / (\% \text{ of } CO_2 \text{ measured in stack})$, no normalization in case CO₂ measured > 4%. Stack height (in meter) shall also be calculated by formula $H=14Q^{0.3}$ (where Q is SO₂ emission rate in kg/hr), and maximum of two shall apply.
- v) The ash generated in the brick kiln shall be fully utilized in-house in brick making.
- vi) All necessary approvals from the concerned authorities including mining department shall be obtained for extracting the soil to be used for brick making in the brick kiln.



- vii) All the haul roads shall be made metallic/paved.
viii) Vehicles shall be covered during transportation of raw materials/bricks.
- Coal shall be stored under shed.
 - The unit shall comply with ambient noise level standard, notified by MoEF& CC, GOI vide GSR 7 dated Dec.22, 1998, as mentioned herein under;

Limit in dB (A) Leq	
Day Time (6:00am-10:00pm)	Night Time (10:00pm-6:00am)
75	70

- The unit shall ensure that fugitive emissions from its activities are controlled in and around the factory premises by adequate sprinkling of water.
- The unit shall install permanent monitoring platform with proper monitoring facilities as per CPCB Guideline for Emission Regulation Part-III (**Appendix-B**).

B) Water Aspects:

- Source of Water : Ground water.
- Details of water consumption and effluent generation:-

Sl. No.	Name	Quantity
1	Raw water Consumption	3.2 KLD
2	Permission /Exemption of CGWA	Not obtained.
3	Effluent Generation	Nil

- The project proponent must obtain NOC from CGWA within one month from the date of issue of CCA, unless failing in exempted category as per MoJS Guidelines dated 24.09.2020 and amendments dated 29.03.2023 thereto.**
- Rain water harvesting facility shall be installed and maintained.
- Storm water shall not be allowed to mix with effluent and/or floor washing.
 - Storm water within the battery limit shall be channelized through separate drain/pipe passing through an oil and grease catch pit cum sedimentation tank.
 - For storm water discharge, the unit shall comply with general effluent discharge standard, notified by MoEF&CC, Govt. of India vide GSR.422 (E) dated.19.05.1993 (**Appendix- C**).

C) Solid Waste Aspects:

- Adequate facility shall be created for collection, storage, transportation, treatment & disposal of non-hazardous solid waste generated from the unit.
- Adequate system shall be adopted on reduction of waste generation and enhancement of re-utilization & recycling of waste materials.
- Solid waste generated in the unit shall be disposed of as per the provisions of Solid Waste Management Rules, 2016.

Shree

Contd....p/4



The unit shall submit compliance report of the mandated conditions by April 15th every year to Member Secretary, as well as to the concerned Regional Office of the Board. The Board will have the liberty to withdraw the CTO, if adequate pollution control and safety measures are not implemented by the unit.

/

(G. Bhuyan)

Addl. Chief Environmental Engineer

Dated Guwahati, the 03rd September, 2024

Memo No. PCBA/T-438/24-25/33-A

Copy to:

✓ 1. M/s Pashupati Nath Bricks, Dhekibari, Govali, P.O-Chandrapur, Dist: Kamrup (M), Assam, PIN: 781150.

2. The Member Secretary, Pollution Control Board, Assam, for favour of your kind information.

G. Bhuyan

(G. Bhuyan)

Addl. Chief Environmental Engineer



**Pollution Control Board, Assam
Bamunimaidam, Guwahati-21**

NOTIFICATION

No. PCBA/LGL-95/2021/Notification/01

Dated Guwahati, the 11th Nov, 2021

In exercise of the powers conferred under Section-5 of the Environment (Protection) Act, 1986 as amended till date and keeping in view the need of public interest towards dissemination of vital information regarding Consent/Authorization of this Board, all industries are hereby directed to install a Display Board of minimum size 5'x4', near the main entrance gate.

The format of the display board is given below:

Name and Address of the Unit : M/s.	
Description of Consent/Authorization	Details
Consent to Establish (CTE)	No.: Date of Issue:
Consent to Operate (CTO)	No.: Date of validity:
Authorization under Hazardous & Other waste (Management & Transboundary Movement) Rules, 2016 (if applicable)	No.: Date of Issue: Date of validity:

Member Secretary

Memo No. PCBA/LGL-95/2021/Notification/01-A

Dated Guwahati, the 11th Nov, 2021

Copy to:

1. The Commissioner & Secretary to the Govt. of Assam, Department of Environment & Forest, Dispur for kind information.
2. P.A. to the Chairman, PCBA for kind appraisal of the Hon'ble Chairman.
3. The All Regional Heads, PCBA for information & necessary action.
4. M/S APS Advertising Pvt. Ltd, Guwahati-1. They are requested to publish the "NOTICE" in "the Assam Tribune" and "Dainandin Barta" on 12.11.2021.
5. Notice Board, Head Office / Website (www.pcbassam.org), PCBA.

Member Secretary



Location of sampling port as per CPCB's emission regulation guideline part-1

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2.5.0 Location of Sampling Port

To ensure laminar flow the sampling ports shall be located at atleast 8 times chimney diameter down stream and 2 times up stream from any flow disturbance. For a rectangular cross section the equivalent diameter (D_e) shall be calculated from the following equation to determine up stream, down stream distances.

$$D_e = \frac{2LW}{L+W}$$

Where L = Length in m, W = width in m.

Sometimes it may so happen for existing chimneys that sufficient physical chimney height is not available for desired sampling location in such cases additional traverse points shall be taken as given under 2.4.0.

The sampling port should be preferably provided on the delivery side of duct or chimney and not on the suction side.



Appendix- C

General Standards for discharge of environment Pollutants Part-A: Effluents

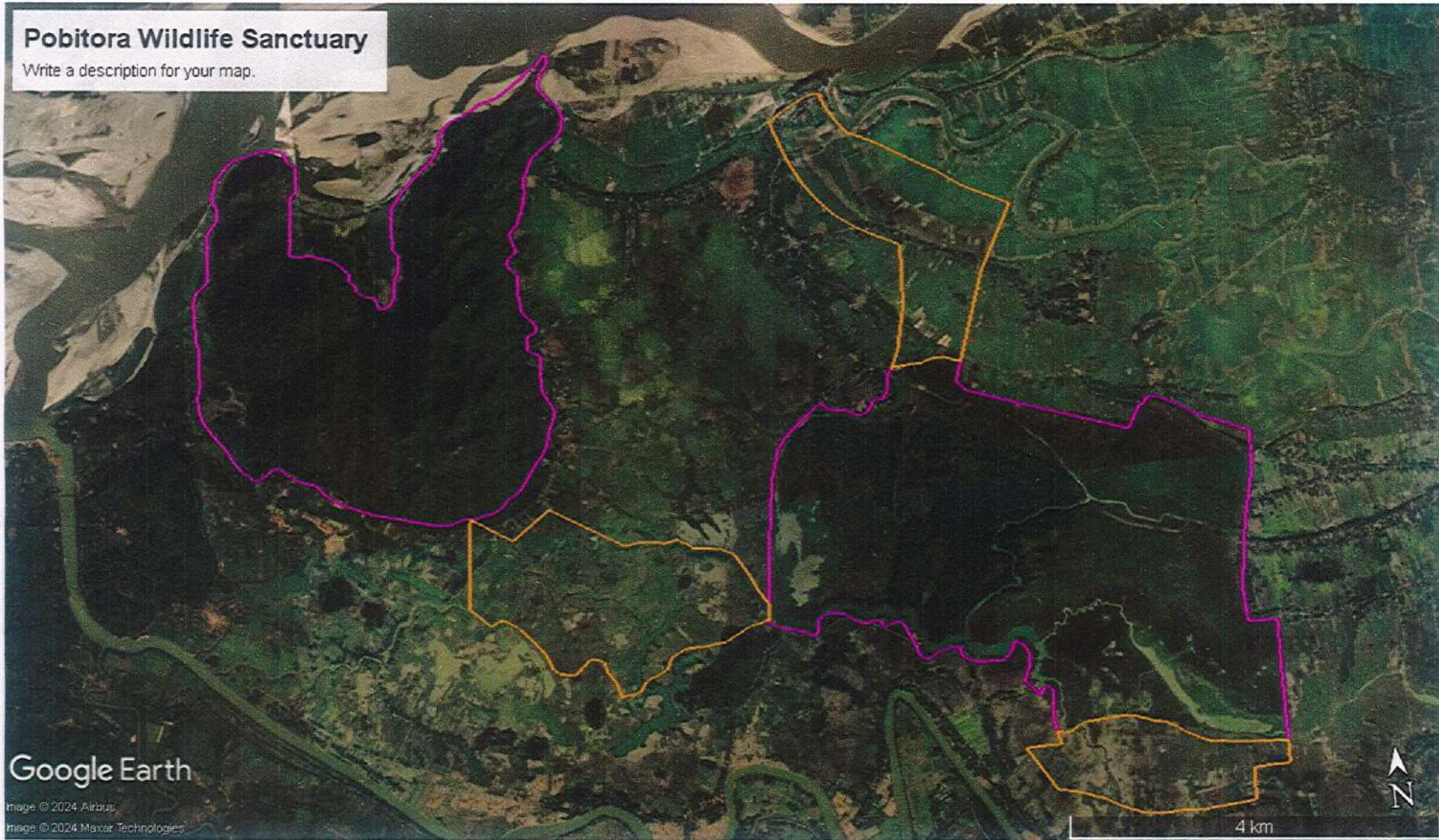
S. No.	Parameter	Standards			
		Inland surface water	public Sewers	Land for irrigation	Marine coastal areas
1	2	3			
		(a)	(b)	©	(d)
1	Color and Odor	5 to 25 Agreeable	-	5 to 25 Agreeable	5 to 25 Agreeable
2	Suspended Solids mg/l, Max.	100	600	200	(a) For process waste water-100 (b) For Cooling water effluent 10 percent above total suspended matter of influent
3	Particular size of suspended solids	Shall pass 850 micron IS Sieve	-	-	(a) Floatable solids, max. 3 mm (b) Settleable solids, max 850 microns
4*	---	-	-	---	-
5	pH value	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0	5.5 to 9.0
6	Temperature	Shall not exceed 5°C above the receiving water temperature	-	-	Shall not exceed 5°C above the receiving water temperature
7	Oil and grease mg/L Max	10	20	10	20
8	Total residual chlorine mg/l, Max	1.0	-	-	1.0
9	Ammonical nitrogen (as N), mg/1 max.	50	50	-	50
10	Total Kjeldhal nitrogen (as NH ₃) mg/l, Max	100	-	-	100
11	Free Ammonia (as NH ₃) mg/1, Max	5.0	-	-	5.0
12	Biochemical oxygen demand (5 days at 20°C), mg/1 Max	30	350	100	100
13	Chemical Oxygen demand, mg/1 Max	250	-	-	250
14	Arsenic (as As) mg/1 Max	0.2	0.2	0.2	0.2

Continued to p/2....



-2-

15	Mercury (As Hg), mg/1 max)	0.01	0.01	-	0.01
16	Lead (as Pb) mg/L, Max	0.1	1.0	-	2.0
17	Cadmium (as Cd) mg/1, Max	2.0	1.0	-	2.0
18	Hexavalent chromium, (as Cr) mg/1, Max	0.1	2.0	-	1.0
19	Total chromium (as Cr) mg/l, Max	2.0	2.0	-	2.0
20	Copper (as Cu) g/l, Max	3.0	3.0	-	3.0
21	Zinc (as Zn) mg/l, Max	5.0	15	-	15
22	Selenium (as Se) mg/l, Max	0.05	0.05	-	0.05
23	Nickel (as Ni) mg/l, Max	3.0	3.0	-	5.0
24*	-	-	-	-	-
25*	-	-	-	-	-
26	-	-	-	-	-
27	Cyanide (as CN), mg/l Max	0.2	2.0	0.2	0.2
28*	-	-	-	-	-
29	Fluoride (as F) mg/l Max	2.0	15	-	15
30	Dissolved Phosphates (as p), mg/l Max	5.0	-	-	-
31*	-	-	-	-	-
32	Sulphide (as S) mg/l Max	2.0	-	-	5.0
33	Phenolic Compounds (as C ₆ H ₅ OH) mg/l Max	1.0	5.0	-	5.0
34	Radioactive materials:				
	(a) Alpha emitter micro curie/ml	10 ⁻⁷	10 ⁻⁷	10 ⁻⁸	10 ⁻⁷
	(b) Beta emitter micro curie/ml	10 ⁻⁶	10 ⁻⁶	10 ⁻⁷	10 ⁻⁶
35	Bio-assay test	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent	90% survival of fish after 96 hours in 100% effluent
36	Manganese (as Mn)	2 mg/l	2 mg/l	-	2 mg/l
37	Iron (as Fe)	3 mg/l	3 mg/l		3 mg/l
38	Vanadium (asV)	0.2 mg/l	0.2 mg/l		0.2 mg/l
39	Nitrate Nitrogen	10 mg/l	-	-	20 mg/l
40	-	-	-	-	-



**GUIDELINES FOR
DECLARATION OF ECO-
SENSITIVE ZONES AROUND
NATIONAL PARKS AND WILDLIFE
SANCTUARIES**



सत्यमेव जयते

**GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS**



Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi -110003.

F. No. 1-9/2007 WL-I(pt)
Dated: 9th February, 2011

To,
The Chief Wildlife Warden
All States/Union Territories

Sub: Guidelines for Declaration of Eco-Sensitive Zones around National Parks and Wildlife Sanctuaries.

Sir

In pursuance to the decision taken by the National Board for Wildlife, all the States/Union Territory, Governments were requested for forwarding site specific proposals for declaration of Eco Sensitive Zones around National Parks and Wildlife Sanctuaries. Several reminders in this connection were also sent. Hon'ble Supreme Court had also take note of this decision had directed States/ Union Territory, Governments to forward proposals this Ministry. However, only very few States have forwarded proposals in this regard.

This Ministry after careful consideration, has therefore, decided to frame guidelines to facilitate the States/Union Territory, Governments for declaration of Eco-Sensitive Zones around National Parks and Wildlife Sanctuaries. Kindly find enclosed a copy of the said Guidelines. It is requested to kindly take necessary action in this regard at the earliest

Yours faithfully,

(Prakriti Srivastava)

Deputy Inspector General (WL)

Telefax: 01-24360704

E-mail: digwl-mef@nic.in

Encl: As above

Copy to:

1. Principal Secretary (Forests), all States/Union Territories.
2. Principal Chief Conservator of Forests, all States/ Union Territories.
3. NIC Cell- with a request to upload the enclosed guidelines on the official website of MoEF.

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3	Purpose for declaring Eco-Sensitive Zones	5
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5	Need for guidelines	5
6	The procedure to be adopted	6

**GUIDELINES FOR DECLARATION OF ECO-SENSITIVE ZONES AROUND
NATIONAL PARKS AND WILDLIFE SANCTUARIES**

1. Background:

1.1. IBWL Decision:

1.1.1 During the XXI meeting of the Indian Board for Wildlife held on 21st January 2002, a 'Wildlife Conservation Strategy-2002' was adopted wherein point no.9 envisaged that "lands falling within 10 Kms of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile zones under section 3 (v) of the Environment (Protection) Act and Rule 5 Sub rule (viii) & (x) of the Environment (Protection) Rules."

1.1.2 The Additional Director General of Forests (WL), vide letter dated 6th February 2002, had requested all the Chief Wildlife Wardens for listing out such areas within 10 Kms of the boundaries of National Parks and Sanctuaries and furnish detailed proposals for their notification as eco-sensitive areas under the Environment (Protection) Act, 1986.

1.1.3 In response, some of the State Governments had raised concern over applicability of the 10 Kms range from the Protected Area boundary and informed that most of the human habitation and other areas including important cities in these States would come under the purview of eco-sensitive zone and will adversely affect the development.

1.2. National Wildlife Action Plan (2002-2016)

1.2.1 The National Wildlife Action Plan (NWAP) 2002-2016 indicates that *"Areas outside the protected area network are often vital ecological corridor links and must be protected to prevent isolation of fragments of biodiversity which will not survive in the long run. Land and water use policies will need to accept the imperative of strictly protecting ecologically fragile habitats and regulating use elsewhere."*

1.2.2 The Action Plan also indicates that *"All identified areas around Protected Areas and wildlife corridors to be declared as ecologically fragile under the Environment (Protection) Act, 1986."*

1.3. Decision of National Board for Wildlife:

1.3.1 Considering the constraints communicated by the states, the proposal was re-examined by the National Board for Wildlife in its 2nd meeting held on 17th March 2005 and it was decided that the '**delineation of eco-sensitive**

zones would have to be site specific and relate to regulation, rather than prohibition, of specific activities'. The decision was communicated to all the State Governments for compliance vide letter dated 27th May 2005. Thereafter, it was further communicated with subsequent reminders.

1.4. Hon'ble Supreme Court's decision:

1.4.1 A Public Interest Litigation was also filed by the Goa Foundation vide their Writ Petition No. 460/2004 before the Hon'ble Supreme Court regarding the issue of declaration of eco-sensitive zones.

1.4.2 Vide their order dated 4th December 2006, Hon'ble Supreme Court had directed the Ministry of Environment & Forests to give a final opportunity to all States/Union territories to respond to the letter dated 27.5.2005 and that the State Governments send their proposals within four weeks, to the Ministry. It was also directed that all cases where environmental clearances were granted where activities are within 10 Kms zone, be referred to Standing Committee of NBWL.

2. Statutory Provisions

2.1 Section 5 C(1) of the Wildlife (Protection) Act, 1972 states that it shall be the duty of the National Board for Wildlife to promote the conservation and development of Wildlife and forests by such measures as it thinks fit.

2.2 Section 3 of the Environment (Protection) Act 1986 (EPA) gives power to the Central Government i.e. the Union Ministry of Environment and Forests to take all measures that it feels are necessary for protecting and improving the quality of the environment and to prevent and control environmental pollution. To meet this objective, the Central Government can restrict areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards [Section 3(2)(v)]

2.3 Section 5(1) of the Environment (Protection) Rules, 1986 (EPR), states that the central government can prohibit or restrict the location of industries and carrying on certain operations or processes on the basis of considerations like the biological diversity of an area (clause v) maximum allowable limits of concentration of pollutants for an area (clause ii) environmentally compatible land use (clause vi) proximity to protected areas (clause viii).

3. Purpose for declaring Eco-Sensitive Zones:

The purpose of declaring Eco-sensitive Zones around National Parks and Sanctuaries is to create some kind of "Shock Absorber" for the Protected Areas. They would also act as a transition zone from areas of high protection to areas involving lesser protection. As has been decided by the National Board for Wildlife, the activities in the Eco-sensitive zones would be of a regulatory nature rather than prohibitive nature, unless and otherwise so required.

4. Extent of Eco-Sensitive Zones:

4.1 Many of the existing Protected Areas have already undergone tremendous development in close vicinity to their boundaries. Some of the Protected Areas actually lying in the urban setup (Eg. Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc). Therefore, defining the extent of eco-sensitive zones around Protected Areas will have to be kept flexible and Protected Area specific. The width of the Eco-sensitive Zone and type of regulations will differ from Protected Area to Protected Area. However, as a general principle the width of the Eco-sensitive Zone could go upto 10 Kms around a Protected Area as provided in the Wildlife Conservation Strategy-2002.

4.2 In case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10 kms width, these should be included in the Eco-sensitive Zone.

4.3 Further, even in context of a particular Protected Area, the distribution of an area of Eco-sensitive Zone and the extent of regulation may not be uniform all around and it could be of variable width and extent.

5. Need for guidelines:

5.1 As has been indicated vide para 1.4 above, Hon'ble Supreme Court has vide their order dated 4th December 2006 directed all the State/Union Territory Governments to forward proposals for declaration of eco-sensitive zones around its Protected Areas. However, only States like Haryana, Gujarat, Mizoram, Meghalaya, Assam, Goa have forwarded proposals. However, several other States/Union Territories have not come forward, perhaps for want of guidelines in this regard.

5.2 In this context, it is pertinent to note here that Hon'ble Supreme Court vide their judgment dated 3rd December 2010 in the case relating to the construction of park at NOIDA near Okhla Bird Sanctuary filed by Shri Anand Arya & Anr vs. Union of India (I.A. Nos 2609-2610 of 2009) in Writ Petition (Civil) No. 202/1995, had noted that the State Government of Uttar Pradesh had not

declared Eco-sensitive zones around its Protected Areas as the Government of India had not issued any guidelines in this regard.

5.3 The Ministry of Environment & Forests had set up a committee under the Chairmanship of Shri Pronab Sen for identifying parameters for designating Ecologically Sensitive Areas in India. The said Committee had identified parameters for declaration of specific units of land/water etc as Ecologically Sensitive Zones based on parameters like richness of flora& fauna; slope; rarity & endemism of species in the area; origins of rivers etc. However, these parameters do not basically apply to the Eco-sensitive zones in the instant context, i.e around Protected Areas. In the instant case, the Eco-sensitive zones are meant to act as a "Shock absorbers"/ "transition zone" to the Protected Areas by regulating and managing the activities around such Protected Areas.

6. The procedure to be adopted :

6.1 As has been indicated in the forgoing paras, the basic aim is to regulate certain activities around National Park and Wildlife Sanctuary so as to minimize the negative impacts of such activities on the fragile ecosystem encompassing the Protected Area. As a first step towards achieving this goal, it is a pre-requisite that an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area (National Parks, Sanctuaries) as well as important Corridors be made. The inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 km of his range.

6.2 For the above purpose, a small committee comprising the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area, could be formed. The said committee could suggest the:

- (i) *Extent of eco-sensitive zones for the Protected Area being considered.*
- (ii) *The requirement of such a zone to act as a shock absorber*
- (iii) *To suggest the best methods for management of the eco-sensitive zones, so suggested.*
- (iv) *To suggest broad based thematic activities to be included in the Master Plan for the region.*

6.3 Based on the above, the Chief Wildlife Warden could group the activities under the following categories (an indicative list of such activities is attached as ANNEXURE-1):-

- (i) *Prohibited*
- (ii) *Restricted with safeguards.*
- (iii) *Permissible*

6.4 Once the proposal for Eco-sensitive zones has been finalized, the same may be forwarded to the Ministry of Environment and Forests for further processing and notification. Here, it may be noted that, the State/Union Territory Forest Department could forward the proposals to the respective authority in the State Government with copy to the Ministry of Environment and Forests, as and when the proposals (even if it is for single Protected Area) are complete. An indicative list of details that need to be submitted along with the proposals is at ANNEXURE-2.

6.5 It is to mention here that in cases where the boundary of a Protected Area abuts the boundary of another State/Union Territory where it does not form part of any Protected Area, it shall be the endeavour of both the State/Union Territory Governments to have a mutual consultation and decide upon the width of the eco-sensitive zone around the Protected Area in question.

6.6 The State Government should endeavour to convey a very strong message to the public that ESZ are not meant to hamper their day to day activities, but instead, is meant to protect the precious forests/Protected Areas in their locality from any negative impact, and also to refine the environment around the Protected Areas. A copy of the notification of the Sultanpur Eco-sensitive Zone issued by the Ministry is attached herewith at ANNEXURE-3 for reference and guidance.

7. These guidelines are indicative in nature and the State / Union Territory Governments may use these as basic framework to develop specific guidelines applicable in the context of their National Parks, Wildlife Sanctuaries, important corridors, etc. with a view to minimizing and preferably eliminating any negative impact on protected areas.

ANNEXURE-1

Identification of Activities

While some of the activities could be allowed in all the eco-sensitive areas, others will need to be regulated / prohibited. However, which activity can be regulated or prohibited and to what extent, would have to be PA specific. A broad list of activities (this may need supplementation) which could be allowed, promoted, regulated or prohibited is given in the table below:

Sl. No.	Activity	Prohibited	Regulated	Permitted	Remarks
1.	Commercial Mining	Y			Regulation will not prohibit the digging of earth for construction or repair of houses and for manufacture of country tiles or bricks for housing for personal consumption
2.	Felling of trees		Y		With permission from appropriate authority
3.	Setting of saw mills	Y			
4.	Setting of industries causing pollution (Water, Air, Soil, Noise, etc.)	Y			
5.	Establishment of hotels and resorts		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals
6.	Commercial use of firewood	Y			For hotels and other business related establishment

Prohibited Regulated Permitted

7.	Drastic change of agriculture systems		Y		
8.	Commercial use of natural water resources including ground water harvesting		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
9.	Establishment of major hydroelectric projects	Y			
10.	Erection of electrical cables		Y		Promote underground cabling
11.	Ongoing agriculture and horticulture practices by local communities			Y	However, excessive expansion of some of these activities should be regulated as per the master plan
12.	Rain Water harvesting			Y	Should be actively promoted
13.	Fencing of premises of hotels and lodges		Y		
14.	Organic farming			Y	Should be actively promoted
15.	Use of polythene bags by shopkeepers		Y		
16.	Use of renewable energy sources			Y	Should be actively promoted
17.	Widening of roads		Y		This should be done with proper EIA

					and mitigation measures
18.	Movement of vehicular traffic at night		Y		For commercial purpose
19.	Introduction of exotic species		Y		
20.	Use or production of any hazardous substances	Y			
21.	Undertaking activities related to tourism like over-flying the National Park area by any aircraft, hot-air balloons	Y			
22.	Protection of hill slopes and river banks		Y		As per the master plan
23.	Discharge of effluents and solid waste in natural water bodies or terrestrial area	Y			
24.	Air and vehicular pollution		Y		
25.	Sign boards & hoardings		Y		As per the master plan
26.	Adoption of green technology for all activities			Y	Should be actively promoted.

ANNEXURE-2**GENERIC INFORMATIONS TO BE INCORPORATED IN THE
PROPOSALS FOR DECLARATION OF ECO-SENSITIVE ZONE
AROUND PROTECTED AREAS**

- (i) Delineation of the physical boundaries on a topo-sheet with precise description in geographic terms together with a description of the significant features/attributes that would potentially qualify the area as eco-sensitive zone. A description of the boundaries alongwith the list of villages with exception and exemption in the delineated buffer zone area.
- (ii) An inventory of the existing legal status of rights, entitlements, privileges and obligations of the local communities.
- (iii) A description of bio-diversity values including bio-geographical representatives, endemism, species richness, geo-morphological characteristics, and unique land use practices including aesthetic and cultural values.
- (iv) A description of the resource base indicating the economic potential and livelihood implication for the people residing in and around the proposed eco-sensitive area.
- (v) An inventory of activities to be regulated and/ or prohibited in the proposed eco-sensitive zone.
- (vi) List of the protected areas for declaring eco-sensitive zone.

WP(C) 1265/2012
BEFORE
THE HON'BLE MR. JUSTICE B.P. KATAKEY

JUDGMENT & ORDER (CAV)

The petitioners, who are the land owners of the nearby land where consent to establish a brick kiln has been granted by the Assam Pollution Control Board (in short, PCB) in favour of the respondent No.11, have filed this writ petition questioning the legality and validity of the order dated 2nd September, 2011 passed by the Deputy Commissioner, Morigaon, according permission to set up the brick kiln on a plot of land covered by Dag No.123 of Periodic Patta No.19 of Chengmari Kisam under Mayong Mouza within Mayong Revenue Circle in the district of Morigaon and also provisional consent to establish granted by the Member Secretary, PCB on 20th October, 2011 for setting up of the brick kiln for production of 30(thirty) lakhs bricks per session over the said plot of land, on the ground of violation of the provisions of the Environment (Protection) Act, 1986 (in short, 1986 Act), Environment (Protection) Rules, 1986 (in short, 1986 Rules), the Air (Prevention and Control of Pollution) Act, 1981 (in short, 1981 Act) and the Air (Prevention and Control of Pollution) Rules, 1982 (in short, 1982 Rules) framed thereunder.

[2] The facts relevant for the purpose of the present case may be noticed as under:-

(a) A brick kiln was originally established by one Dilip Kr. Mazumder, over a plot of land measuring 21 Bighas 10 Lechas covered by Dag No.123, Patta No.19 situated at village-Chengmari Kisam under Mayong Mouza within Mayong Revenue Circle in the district of Morigaon, Assam, without, however, obtaining any permission from the district authorities as well as consent to establish and the consent to operate from the PCB. The ownership of the land was, thereafter, stated to have been transferred by said Shri Dilip Kr. Mazumdar in favour of the respondent No.11, by 2(two) registered instruments, both dated 23rd August, 2010, and consequently the respondent No.11 claims to be the owner in respect of the said land. On 14th June, 2011, an application was filed by the respondent No.11 seeking No Objection Certificate from the Deputy Commissioner for opening of a brick kiln and accordingly, vide order dated 2nd September, 2011, the Deputy Commissioner accorded permission to set up the brick kiln, subject to the condition that it must not damage the adjacent Periodic Patta land/Annual Patta land/Government land, etc. in any manner. After grant of such permission, a public petition was filed by the residents of the locality, before the Deputy Commissioner, to withdraw the permission accorded, because of the impending damages to the surrounding agricultural land and also to the flora and fauna of Pobitora Wildlife Sanctuary. Consent to establish, under the provisions of the 1981 Act was asked for by the respondent No.11 for setting up of brick kiln over the aforesaid plot of land, which was granted by the PCB vide order dated 20th October, 2011 for production of 30(thirty) Lakhs bricks per session, subject to the conditions stipulated therein including the condition not to cause any damage to any agricultural land. In the meantime, the Divisional Forest Officer, Guwahati Wildlife Division has also issued a communication dated 10th October, 2011 to the Deputy Commissioner, Morigaon requesting to take necessary measures to stop setting up of brick kiln, on the ground that the proposed brick kiln is within 5 Km from the boundary of Raja Mayong Hill Reserved Forest, which is a part of the notified Pobitora Wildlife Sanctuary and falls within the proposed Eco-Sensitive Zone (in short, ESZ) of Pobitora Wildlife Sanctuary and on the animal movement corridor. Copy of the said communication was also sent to the Chairman of the PCB requesting him to take requisite measures at his end on the aforesaid issue.

(b) An enquiry was, thereafter, conducted by the District Agricultural Officer, Morigaon, who has submitted a report dated 27th October, 2011 with the finding that the land upon which the brick kiln is proposed to be established is agricultural land and in the surrounding area Bodo Paddy is cultivated and such industry is likely to have adverse affect on such cultivation. The Circle Officer, Mayong Revenue Circle vide communication dated 8th October, 2012 informed the Deputy Commissioner, Morigaon, that Chengmari village, in which the brick kiln is proposed to be set up, is 3 Km away from Pobitora Wildlife Sanctuary. It has also been informed that the land over which such brick kiln is proposed to be set up is near to Pobitora Wildlife Sanctuary. Based on the public complaint, the Chairman, PCB also conducted an enquiry through the Assistant Engineer (HO), PCB, who has submitted a report on 12th December, 2012 with the remark that running of a brick manufacturing unit in the said location will have an adverse affect on the surrounding paddy fields as well as in the environment of the area and the smoke emitted from the chimney will cause health problems to the local people as well as the animal life. In the said report, it has also been mentioned that even before grant of consent to operate, operational activity has been undertaken by making raw bricks and stacking of the same for drying without, however, firing the chimney. The Member Secretary, PCB, having regard to the said report, issued a pre-closure notice on the ground of violation of the provisions contained in Section 21(1) of the 1981 Act, for starting the operational activities without the consent and asking the respondent No.11 to show cause as to why the consent to establish earlier granted should not be withdrawn. The respondent No.11 was also prevented from undertaking any such activity. The PCB, however, subsequently, after filing of the objection by the respondent No.11, has withdrawn the said notice.

(c) A proposal for declaration of ESZ around Pobitora submitted by the Divisional Forests Officer to the Government of Assam in the Environment & Forests Department was, in the meantime, sent by the Government of Assam to the Government of India, Ministry of Environment & Forests on 29th May, 2012 for consideration for issuing the notification declaring the ESZ in and around Pobitora, Amchang and Deepor Beel Sanctuaries in terms of the guidelines issued by the Government of India for declaration of such ESZ, wherein setting up of industries causing water, air, soil and noise pollutions, within the proposed ESZ of 1 KM radius of the outer boundary of Pobitora Wildlife Sanctuary, was proposed to be prohibited. Despite receipt of the said proposal in the early part of June, 2012, the Government of India, Ministry of Environment & Forest did not, however, take the matter for consideration and only after the order passed by this Court on 18th September, 2013, a communication dated 19th September, 2013, was issued by the Assistant Inspector General of Forests (WL), Government of India, Ministry of Environment & Forests (Wildlife Division) to the Principal Secretary (Forests), Government of Assam stating that the said proposal does not conform to the guidelines issued by the Government of India on 9th February, 2011 in some respect, without, however, specifying as to how the guidelines have not been complied with. The fact, therefore, remains that the ESZ has not been declared by the Government of India. The classification of land, on which the brick kiln is proposed to be set up has, during pendency of the writ petition, been changed by the Additional Deputy Commissioner (Revenue), Morigaon, from agricultural land to non agricultural land, vide order dated 10th April, 2013.

[3] I have heard Mr. R. Baruah, learned counsel for the petitioners, Mr. B. Chetri, learned senior Government advocate, Assam appearing for the respondent Nos.1 to 7 and 10-A, Mr. P.J. Phukan, learned standing counsel, PCB appearing for the respondent Nos.8 to 10, Mr. B.D. Das, learned senior counsel assisted by Mr. D. Nath, learned counsel appearing for the respondent No.11 and Mr. R. Sarma, learned Assistant Solicitor General of India appearing for the newly impleaded respondent No.12.

[4] Mr. Baruah, learned counsel for the petitioners, challenging the order dated 2nd September, 2011 passed by the Deputy Commissioner, Morigaon, granting permission to set up the brick kiln and the order dated 20th October, 2011 passed by the Member Secretary, PCB granting consent to establish such brick kiln by the respondent No.11, has submitted that since it appears from the revenue record that at the relevant point of time, i.e. on the date when such permissions were granted, the land was admittedly agricultural land, over which, according to the PCB itself, no consent to establish a brick kiln can be granted, grant of such permission by the Deputy Commissioner as well as by the PCB is illegal. It has also been submitted that it is apparent from the materials available on record that such permissions have been granted by the district authority as well as by the PCB for setting up of brick kiln within the proposed ESZ, despite the request made by the Divisional Forest Officer, not to do so. The learned counsel further submits that grant of such permission within 5 Km radius of the Pobitora Wildlife Sanctuary and within the proposed ESZ would not only adversely affect the surrounding agricultural land over which the Bodo Paddy is cultivated but also the flora and fauna of the Pobitora Wildlife Sanctuaries, which is also evident from the report submitted by the District Agricultural Officer, apart from the Divisional Forest Officer and hence, no permission ought to have been granted, as it will have adverse the environmental affect, which aspect of the matter has been ignored by the district administration as well as by the PCB thereby ignoring the greater public interest and to further the personal interest of the respondent No.11.

[5] The learned counsel further submits that the consent to establish granted by the PCB is also in violation of the provisions contained in Rule 3 of the 1986 Rules, as in such permission the requirements of Entry-74 of Schedule-1 have not been specified. Mr. Barua, further submits that it is also apparent from the report submitted by the Assistant Engineer (HO), PCB dated 12th December, 2012, that the respondent No.11 even has started the operational activity, after obtaining the consent to establish and even before grant of the consent to operate by the PCB and such grant of consent to establish would also affect the environment, as noticed in the said report, despite which the PCB has subsequently withdrawn the pre-closure notice dated 17th December, 2012 issued by it only with a view to grant some personal benefit to the respondent No.11, by ignoring the public interest. The learned counsel submits that the respondent No.11 by his action of starting the operational activities has violated the conditions stipulated in the consent to establish as well as the provisions of the 1981 Act.

[6] Mr. Barua, learned counsel for the petitioners placing reliance on the decision of the Apex Court in Shri Sachidanand Pandey & Anr. -Vs- The State of West Bengal & Ors. reported in AIR 1987 SC 1109 has submitted that since the permission as well as the consent to establish have been granted by the Deputy Commissioner and the PCB, respectively, without considering all the relevant factors required to be taken into consideration, i.e. that the land is agricultural land and setting up of the brick kiln over the land would cause environmental pollution, such permission granted needs to be set aside. Mr. Baruah, learned counsel, referring to Article 51A of the Constitution of India submits that since it is the fundamental duty of every citizen of India to protect and improve the natural environment including the forests, lakes, rivers and wildlife, and to have compassion for living creatures, the authority concerned ought not to have granted the permission to set up the brick kiln within the proposed ESZ, which would affect the environment in general, causing damage to the surrounding agricultural land and also to the flora and fauna of the Pobitora Wildlife Sanctuary, just to further the personal interest of an individual ignoring the greater public interest. Learned counsel submits that it is the fundamental duty of every citizen, including the State, based on public trust doctrine, to protect the environment, ecology and natural resources. The learned counsel in support of his contention has placed reliance on a decision of the Apex Court in Association for Environment Protection -Vs- State of Kerala & Ors. reported in (2013) 7 SCC 22

6.

[7] Mr. Chetri, learned senior Government advocate, supporting the order dated 2nd September, 2011 passed by the Deputy Commissioner granting permission to set up the brick kiln over the plot in question has submitted that since the land, though at the relevant point of time was recorded in the revenue record as agricultural land, is not fit for cultivation, no illegality has been committed by the district administration in according such permission. It has also been submitted that the request of the Divisional Forests Officer either not to grant the permission or to withdraw the permission already granted, in view of the submissions of the proposal for notifying the ESZ to the Government of India, also cannot be the ground for refusal or withdrawal of the permission granted, since the ESZ has not yet been notified by the Government of India. The learned senior Government advocate further submits that the revenue authority, having regard to the nature and use of the land, has reclassified the same as non agricultural land and hence, the ground on which the challenge to the order dated 2nd September, 2011 passed by the Deputy Commissioner granting permission, made, is nonexistent.

[8] Mr. Phukan, learned standing counsel, appearing for the PCB has submitted that the PCB never grant consent to establish and consent to operate a brick kiln over the agricultural land, having regard to the requirement to preserve such land. In the instant case, according to the learned counsel, consent to establish a brick kiln by the respondent No.11 has been granted based on the permission granted by the district administration on 2nd September, 2011 and the certificate issued by the revenue authority certifying that the land is not suitable for agricultural purpose. It has also been submitted that in the consent to establish, the conditions on which the same has been granted have been stipulated and the consent to operate would not be issued to the respondent No.11 unless he complies with the requirement of Entry-74 of Schedule-1 of the 1981 Act, stage for which is yet to come. Mr. Phukan, therefore, submits that the apprehension of the petitioners in that regard would be considered by the PCB while taking up the issue relating to grant of consent to operate. It has also been submitted that though, based on the enquiry report submitted by the Assistant Engineer (HO), PCB dated 12th December, 2012, pre-closure notice was issued by the PCB on 17th December, 2012, the same, however, has subsequently been withdrawn, based on the objection filed by the respondent No.11 and the subsequent report submitted by the Assistant Engineer (HO), PCB, wherefrom it appears that the brick kiln has not been put into operation, meaning thereby that the chimney has not been fired.

[9] It has also been submitted that in respect of the brick kiln, the operation is said to commence not on preparation of the raw materials for putting it in the chimney for fire but on firing the chimney, and since such firing has not been done by the respondent No.11, there is no violation of either the consent to establish or any of the provisions of the 1981 Act or 1986 Act. Mr. Phukan further submits that though in one report submitted by the District Agricultural Officer, it has been mentioned that the proposed brick kiln is within % Km radius of the Pobitora Wildlife Sanctuary, in another report submitted by the Circle Officer, the same is stated to be 3 Km away from the periphery of such Wildlife Sanctuary. The learned counsel, therefore, submits that no illegality has been committed by the PCB in according the consent to establish over the land, which is not fit for agricultural purpose and has in fact, in the meantime, been reclassified as non agricultural land.

[10] Mr. Das, learned senior counsel appearing for the respondent No. 11, supporting the argument advanced by the learned senior Government advocate as well as the learned standing counsel of the PCB, submits that there would not be any adverse affect on the environment on setting up of the brick kiln over the land in question, which is not fit for agricultural purpose, as is apparent fr

om the certificate issued by the revenue authority, which land in fact has subsequently been reclassified as non agricultural land. It has also been submitted that though, pending consideration of the proposed ESZ by the Government of India, neither the district administration nor the PCB should grant any permission to set up any industry within such ESZ, which, in the instant case, is within the radius of 1 KM from the periphery of Pobitora Wildlife Sanctuary, since the land over which the brick kiln is proposed to be set up is at a distance of 3 Km from the periphery of the said Pobitora Wildlife Sanctuary, i.e. beyond the proposed ESZ, the decision of the authorities in granting the permission cannot be held to be illegal. Mr. Das further submits that grant of such permission by the district administration as well as by the PCB would not cause any adverse environmental affect on the nearby paddy fields and in case at subsequent stage it is found that the respondent No.11 has caused any damage to the nearby paddy fields, the consent to establish or consent to operate can be withdrawn by the PCB, there being a condition on the consent to establish that the respondent No.11 would not cause any damage to the nearby agricultural land.

[11] It has also been contended that whether the respondent No.11 has complied with the requirement of Entry-74 of Schedule-1 of the 1981 Act would definitely be considered by the PCB before granting the consent to operate and unless the requirements under the said provision are fulfilled, naturally the PCB would not grant the consent to operate. It has also been submitted that the pre-closure notice dated 17th December, 2012 was issued by the PCB asking the respondent No.11 to show cause, because of the pressure exerted by some disgruntled elements, who has no locus-standi to raise such objection, which notice has rightly been withdrawn by the PCB, after making necessary enquiry relating to the alleged violation of the provisions of the 1981 Act, 1986 Act as well as the conditions of the consent to establish.

[12] The learned senior counsel also questions the locus-standi of the petitioners to approach the Court challenging the permission accorded by the district administration as well as by the PCB, contending that the petitioners having no land near the land over which the brick kiln is proposed to be set up, they cannot file the writ petition challenging the said decision of the authorities, which has been done with the ulterior motive of depriving the petitioners from setting up such industry. According to the petitioners, though there are 8/10 such brick kilns presently in operation in the area, the petitioners have not raised any objection in relation to setting up of such brick kilns and has singled out the respondent No.11 to settle the score, as an order under Section 133 Cr.P.C. was passed against them by the Executive Magistrate. The learned senior counsel, therefore, submits that the writ petition deserves to be dismissed with cost. Mr. Das, learned senior counsel in support of his contention that no legal right of the petitioners has been violated and as such the petitioners cannot maintain the writ petition, has placed reliance on a judgment of the Apex Court in *Ayaaubkhan Noorkhan Pathan -Vs- State of Maharashtra & Ors.* reported in (2013) 4 SCC 465.

[13] Mr. Sarma, learned Additional Solicitor General of India appearing for the newly impleaded respondent No.12, pursuant to the order dated 18th September, 2013, has submitted that despite the aforesaid order passed, the affidavit could not be filed as the said affidavit is yet to be vetted by the Minister concerned. It has, however, been submitted that the written instruction, which is placed on record, reflects the stand of the Government of India, in relation to the proposal submitted by the Government of Assam for declaration of ESZ. Mr. Sarma further submits that the ESZ has not been declared by the Government of India as it has found certain lacuna in the proposal submitted by the Government of Assam and accordingly, the Principal Secretary (Forests), Government of Assam, has been requested, vide communication dated 19th September, 2013, to resubmit the same in terms of the guidelines issued by the Government of India on 9th February, 2011.

[14] The question of locus-standi of the writ petitioners to file the writ petition challenging the aforesaid permission granted by the district administration as well as by the PCB, as has been raised by the respondent No.11, shall be dealt with first. Article 51-A of the Constitution of India imposes a fundamental duty on every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Every citizen, therefore, has the fundamental duty to protect the environment and also the flora and fauna of the wildlife. Hence, even if the petitioners do not have the landed property near the land over which the permission has been accorded by the district administration for setting up of the brick kiln and consent to establish has been granted by the PCB, the petitioners being the citizens of India, can maintain a writ petition challenging the aforesaid decisions of the authorities on the ground of violation of the environmental laws.

[15] The Apex Court in Ayaubkhan Noorkhan Pathan (supra) has held that at the person aggrieved to file a writ petition either under Article 226 or under Article 32 of the Constitution of India must be one, whose right or interest has been adversely affected or jeopardized and hence, a person who raises a grievance, must show how he has suffered legal injury. It has also been held that the existence of the legal right is a condition precedent and generally a stranger having no right whatsoever to any post or property, cannot be permitted to intervene in the affairs of others. There is no dispute to the proposition of law laid down by the Apex Court. As discussed above, since every citizen has a fundamental duty under Article 51-A of the Constitution of India to protect and improve the natural environment, including forests, lakes, rivers and wildlife and to have compassion for living creatures, it cannot be said that the petitioners do not have the legal right to approach this Court for protection of environment and also the flora and fauna of the Wildlife Sanctuary or they would not suffer legal injury in case there is environmental pollution. Every citizen has the right to question the environmental pollution and to have the unpolluted environment with a view to protect his own fundamental right guaranteed under Article 21 of the Constitution, apart from the interest of the other creatures in the forest, i.e. the wildlife, whose interest have to be protected by the human being. The writ petition at instance of the petitioners is, therefore, maintainable, they having locus standi to challenge the permission granted by the authorities.

[16] PCB has admitted that brick kiln cannot allow to be set up over the land fit for agriculture. The Government of Assam also vide communication dated 7th January, 1986 issued by the Deputy Secretary to the Government of Assam, Revenue (Settlement) Department, informed the Deputy Commissioners as well as the Sub-Divisional Officers, expressing concern of setting up of the brick kilns on the land, which is suitable for agricultural purpose, the decision of the Government not to allow setting up of brick kilns over Government land suitable for agriculture purpose. In our country, having population of more than 120 Billion, where majority of the population earned their livelihood from agriculture, preservation of the agricultural land is must, which will also assist in controlling influx of the rural population to the urban areas in search of job, apart from helping in reducing the unemployment problem in our country. Preservation and maintenance of the agricultural land is, therefore, must. The land suitable for agriculture, therefore, cannot allowed to be used for setting up of brick kiln. No permission for setting up of such industry over the land not fit for agriculture, for the aforesaid reason, can also be granted, if the same would have an adverse affect on the nearby agricultural land, which precisely the condition put by the PCB in the consent to establish dated 20th October, 2011, granted to the respondent No.11, for setting up of the brick kiln, so as to save the surrounding or nearby agricultural fields.

[17] In the instant case, it appears from the various certificates is

sued by the revenue authority that though the land in question has been recorded as agricultural land in the revenue record, the same stated to be not fit for cultivation, over which in fact a brick kiln was earlier established, without, however, obtaining any permission from the authorities, including the PCB. That apart, the land has been reclassified from agricultural land to non agricultural land vide order dated 10th April, 2013 passed by the Additional Deputy Commissioner, which order has not been put to challenge. The, land, therefore, in the absence of any other material to the contrary, appears to be not fit for agriculture. The Deputy Commissioner as well as the PCB cannot, however, without making any enquiry and survey as to whether the nearby or the surrounding agricultural cultivable land would be damaged, grant permission to set up brick kiln. In the instant case, nothing has been placed before this Court by the Deputy Commissioner to demonstrate making such an enquiry or survey before issuance of the order dated 2nd September, 2011 granting permission to set up the brick kiln. The records produced by the PCB also do not reflect making of any such enquiry before granting the consent to establish on 20th October, 2011. On the other hand, the PCB in condition No.32 of the consent to establish has stipulated a clause that the respondent No.11 would not cause damage to the nearby agricultural fields.

[18] Entry-74 of Schedule-1 of 1986 Rules provides the emission standards in respect of the different categories of brick kilns, which also stipulates the stack height of different categories of such brick kilns, i.e. small, medium, large, depending upon the quantity of the bricks to be produced. A brick kiln established with due permission from the authorities concerned, including the PCB, must, therefore, conform to the said requirements, in the absence of which, no consent to operate can be granted by the PCB. The question whether a brick kiln, has been set up, pursuant to the consent to establish, and inconformity with the requirement of Entry-74 of Schedule-1 of the 1986 Rules, would arise for consideration by the PCB before grant of the consent to operate. The apprehension of the petitioners that the brick kiln may be set up by the respondent No.11 without complying with the requirement of Entry-74 of Schedule-1 of the aforesaid 1986 Rules is pre-mature as the PCB is yet to grant consent to operate. Such apprehension, in any case, has to be taken note of by the PCB at the appropriate stage.

[19] It also appears from the pre-closure notice dated 17th December, 2012, issued by the Member Secretary of PCB that there was an allegation of making the brick kiln operational even before the consent to operate has been granted by the PCB, as required under Section 21 of 1981 Act, which prohibits establishment and operation of any industrial plants in an air pollution control area without the previous consent of the State PCB. Admittedly the consent to establish granted to the respondent No.11 over the plot of land falls within the air pollution control area, within the meaning of the 1981 Act and hence, there must be prior permission from the PCB to establish and also to operate the brick kiln, which is an industrial plant. It appears from the report dated 12th December, 2012, submitted by the Assistant Engineer (HO), PCB that the respondent No.11 even before applying for consent to operate, which is yet to be granted by the PCB, has started the preparation of the raw materials by digging earth and making the raw bricks ready to fire. The chimneys set up, however, have not been fixed. The PCB in the affidavit has taken the stand that since making the raw materials ready for fire is not part of the operational activity in a brick kiln, the respondent No.11 has not violated any conditions put either in the consent to establish or the provisions of Section 21 of the 1981 Act and hence, the pre-closure notice dated 17th December, 2012 has subsequently been withdrawn.

[20] The word operate has not been defined in 1981 Act and hence, it has to be understood in the context of the provisions contained in the 1981 Act and the 1986 Act, having regard to the purpose for which such enactments have been made. The environmental laws, such as 1981 Act and 1986 Act, have been enacted

ted to prevent the environmental pollution. Environment can be polluted even by digging of earth to make the raw materials ready for fire in a brick kiln, though the chimneys are not fired. The word operation, therefore, includes the preparation necessary to fire the raw bricks in a brick kiln and such ancillary work in connection with the brick kiln. It also includes a process of a manual or mechanical nature in some form of work relating to the ultimate production. The contention of the PCB as well as the respondent No.11 that the operational activities have not started, by making the raw materials ready for fire in the chimneys, when the chimneys are not fired, cannot be accepted. The respondent No. 11 did commence the operational activities, as noticed above, even before filing application for grant of consent to operate, which is admittedly yet to be granted by the PCB.

[21] It also appears from the various affidavits filed by the parties that the Government of Assam in Environment & Forests Department has submitted proposals to the Government of India in Environment & Forests Department for notifying the ESZs around the various Wildlife Sanctuaries and National Parks in the State of Assam, way back on 29th May, 2012. The Government of India is sitting over the matter for last 1(one) year, ignoring the importance of constitution of the ESZ to protect the flora and fauna of the wildlife and only on 19th September, 2013, issued a communication to the Principal Secretary (Forests), Government of Assam, informing that the proposals submitted are not in conformity with the guidelines dated 9th February, 2011 issued by the Government of India, without disclosing as to how and in what manner such proposals are not in conformity with the aforesaid guideline. The said communication was issued only after the order dated 18th September, 2013 was passed by this Court impleading the Government of India, Ministry of Environment & Forests, as respondent No.12, and directing the Secretary to the Government of India, Environment & Forests Department, to file affidavit, which leaves an impression in the mind of the Court that the Government of India, only to demonstrate that they are considering the proposal, has issued the aforesaid communication on 19th September, 2013. Fact remains that the ESZs including one around Pobitora Wildlife Sanctuary have not been notified as yet, pursuant to the direction issued by the Apex Court and also the guideline issued by the Government of India for submission of the proposal for declaration of ESZs around the National Parks and the Wildlife Sanctuaries on 9th February, 2011. The National Green Tribunal, New Delhi (Principal Bench) in its judgment dated 7th September, 2012, passed in Application No.38/2011, has also observed that the Ministry of Environment & Forests as well as the State of Assam have totally failed in their duties with respect to the implementation of the various provisions of the notification dated 5th July, 1996 issued by the Ministry of Environment & Forests, Government of India, relating to No Zone Development, which indicates the apathy on the part of the authorities in protecting the environment, more particularly, the flora and fauna of the forests.

[22] As noticed above, proposals for declaration of ESZs around the various National Parks and various Wildlife Sanctuaries have been sent more than a year back to the Government of India, on the basis of which, admittedly such ESZs have not been notified as yet. In respect of the Pobitoral Wildlife Sanctuary, the ESZ proposed is of the radius of 1 Km from the periphery of the Pobitora Wildlife Sanctuary. Having regard to the purpose for which such ESZs are required to be created, I am of the view that neither the State administration nor the PCB shall grant any permission or consent to establish and consent to operate any industry in such proposed ESZs till a final decision is taken by the Government of India on such proposals. In the instant case, there is, however, a dispute on fact as to whether land over which permission to set up a brick kiln has been granted by the district administration as well as by the PCB is within 1 Km radius from the periphery of the Pobitora Wildlife Sanctuary, i.e. the proposed ESZ or beyond. Such factual dispute cannot be resolved in a writ proceeding, which, however, has to be resolved by the district administration as well as by the PCB by making necessary field verification, in association with the Fores

ts Department of the Government of Assam.

[23] As discussed above, neither the PCB nor the district administration before granting the aforesaid impugned permissions to establish the brick kiln made proper field verification relating to the affect on the surrounding and/or adjacent land fit for agricultural purpose and the adverse affect, if any, to the flora and fauna of the Pobitora Wildlife Sanctuary, though those are relevant considerations. The Apex Court in Shri Sachidanand Pandey (supra) has held that the decision taken by the authority without taking into consideration all the relevant facts is not valid. That apart, it is the duty of every citizen including the authority to protect the environment, ecology and natural resources. The Courts have, time and again, invoked the public trust doctrine for giving judicial protection to the environment, ecology and natural resources and the Apex Court has also recognizing importance of such doctrine, applied the same for protecting the natural resources. Reference in this regard may be made to the judgment of the Apex Court in Association for Environment Protection (supra).

[24] In view of the aforesaid discussion, the writ petition is disposed of with the following directions:-

(i) The district administration, Morigaon as well as the PCB shall cause local verification and survey to ascertain as to whether setting up of the brick kiln over the land in question would cause any adverse affect on the surrounding and/or nearby land suitable for cultivation.

(ii) The aforesaid authorities, in association with the department of Environment & Forests, Government of Assam, shall also make local inspection to find out whether the land over which the permission to set up the brick kiln has been granted, falls within 1 Km radius from the periphery of the Pobitora Wildlife Sanctuary, i.e. in the proposed ESZ.

(iii) If upon such inspection/survey, it is found that setting up of the brick kiln would have adverse affect on the surrounding and/or nearby land suitable for agriculture, or within the proposed ESZ, necessary order shall be passed by the Deputy Commissioner, Morigaon as well as by the Member Secretary, PCB, cancelling the aforesaid permissions dated 2nd September, 2011 and 20th October, 2011, granted by the Deputy Commissioner, Morigaon and by the PCB, respectively.

(iv) In case, the aforesaid authorities find that there would not have any adverse environmental affect and the land in question is not within the proposed ESZ, as noticed above, necessary order shall be passed by the authorities. In that case, the PCB shall also ensure compliance of Entry-74 of Schedule-1 of 1986 Rules, before grant of consent to operate, apart from other provisions of the environmental laws. The PCB shall also, in every 3(three) months, make necessary inspection relating to the compliance of the different provisions of the environmental laws, apart from causing environmental pollution, if any, and shall pass necessary order, in accordance with law, if environmental pollution and/or violation of the provisions of the environmental law is found.

(v) The aforesaid exercise is directed to be completed within a period of 2(two) months from today.

(vi) The respondent No.11 shall not undertake any activity till the aforesaid decision is taken by the Deputy Commissioner as well as by the PCB.

(vii) The PCB shall, within 3(three) months from today, conduct inspection of all brick-kilns in the State of Assam to find out whether necessary permissions, as required under the relevant environmental laws, have been obtained, and whether those industries have complied with the requirements of law including the emission standard. If not, necessary order(s), within 2(two) months thereafter, s

hall be passed by the PCB after giving opportunity of hearing to all concerned.

(viii) The Principal Secretary (Forests) to the Government of Assam, Environment & Forests Department shall, within a period of 1(one) month from today, reply the communication dated 19th September, 2013 issued by the Government of India, Ministry of Environment & Forests (Wildlife Division), and if there is any lacuna in the proposal already submitted for declaration of ESZs, the same shall also be rectified and resubmitted within the aforesaid period of time.

(ix) The Government of India, Ministry of Environment & Forests (Wildlife Division), within 2(two) months thereafter, shall consider the proposal and pass necessary order with regard to issuance of notification constituting ESZs around the National Parks as well as the Wildlife Sanctuaries in the State of Assam.

(x) Till such consideration is made, no industry would be allowed to set up within the proposed ESZs around the National Parks as well as Wild Life Sanctuaries in the State of Assam.

[25] No costs.

(236)

Minutes of physical verification conducted in pursuance of order of Hon'ble
Guwahati High Court WP(C) No. 1265/2012

Camp:- vill Chengmari, Burha Mayong and Chengmari Pathar.
Date:- 19-12-2013

In pursuance of the order of the Hon'ble Guwahati High Court in connection with WP(C) No. 1265/2012 and also as per direction of the Deputy Commissioner, Morigaon vide Letter No. MRS 21/2012/210-A dated 16/12/2013 a joint physical verification was carried out by the joint verification team constituted by the Deputy Commissioner, Morigaon comprising the following :-

- 1) Circle Officer, Mayong Rev. Circle.
- 2) Divisional Forest Officer, Ghy Wild Life Division.
- 3) District Agriculture Officer, Morigaon
- 4) Regional Executive Engineer, Pollution Control Board, Nagaon.

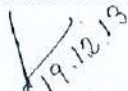
The joint verification team physically inspected the site and measured the distance of the BBA Brick Kiln Industry from the periphery of Burha Mayong (Mayong Parbat) Hill RF as well as Pobitora WLS (Rhino bearing area).

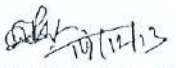
The findings are as follows :-

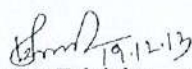
1) The distance of BBA Brick Kiln from Burha Mayong (Mayong Parbat) Hill RF (nearest point) is 1212 Meter from forest boundary to the Chimney and 1120 Meter from forest boundary to the nearest outer boundary of the BBA Brick Kiln.

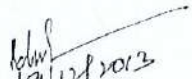
2) The distance of BBA Brick Kiln from periphery to Pobitora WLS (Rhino bearing area) is 2130 Meter to the Chimney and 2048.50 Meter to the nearest outer boundary of the BBA Brick Kiln.

Signature of members of joint verification team:-

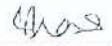

Name:- Dhiraj Saud, ACS
Designation:- Circle Officer,
Mayong Rev. Circle.



Name:- Md. Faridulla Ali, AFS
Designation:- ACF, Ghy WL Division
(Rep. of DFO)


Name:- Kulen Talukdar
Designation:- Asstt. Ex. Engineer
R.O. Nagaon
Pollution Control Board, Assam
(Rep. of Regional Ex. Engineer)


Name:- Manabendra Sharma
Designation:- ADO, Raja Mayong
(Rep. of DAO)

Signature of witnesses:-


(Inspector Bar. A.D., Morigaon) 1


CAS HOK. K.R. DAS. AFS)
R.O. Pobitora WLS

237

Joint Inspection Report

As per direction of hon'ble Gauhati High Court Judgement and order Dated. 28.10.2013, subsequent order issued from Deputy Commissioner, Morigaon vide letter Dated. 13.11.2013 and Member Secretary Pollution Control Board, Assam Dated. 12.11.2013 following officers namely –

1. Circle officer – Mayong Revenue Circle, Morigaon. Mr. Dharaj Saud.
2. Divisional Forest officer (wild life), Santipur Gauhati – 9, Mr. D. Gogoi.
3. Regional Executive Engineer, Regional office, Nagaon Pollution Control Board Assam, Mr. R. Sarmah. And
4. District Agricultural office, Morigaon, Mr. Manabendra Sarma.

made a joint physical verification on 18th Nov'2013 and 19th Dec'2013 (K. Talukdar, AEE, Regional Office Nagaon was present during measurement on 19.12.2013). the brick kiln unit namely M/s. Bhawani Brick Industry (BBA) located at vill: chengmari kism under Mayong Revenue Circle.

During joint physical verification on 18th & 19th December, 2013 the following observations were made.

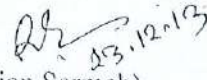
1. Proposed site of M/s. Bhabani Bricks is a low lying one. During our visit no activity of the said brick kiln was continued.
2. There has been an agricultural activity near to the proposed site. The agricultural (paddy fields) are approximate distance more than 1 Km. towards the Mayang Reserve Forest as per measurement done by Department of Forest, Government of Assam. Distance of Crop area towards Pobitora Wild Life Sanctuary is more than 200 Mts. from the stack.

As per local villagers summer paddy crops i.e. Boro paddy crops are planted before the monsoon season begins.

3. (a) About the distance, the minimum distance from the stack of the Brick Kiln to Mayang Reserved Forest boundary is 1212 Mts. (nearest point) as per measurement done by Forest Department (copy enclosed). 1120 Mts. from forest boundary to the nearest outer boundary of the brick unit.

(b) The distance of brick Kiln from periphery to Pobitora Wild Life Sanctuary (Rhino bearing area) is 2130 Mts. to the stack and 2048 Mts. to the nearest outer boundary of the said brick kiln.

As per observation made, the brick field is not likely to cause any adverse affect on agricultural productivity. However, by adopting the prescribed anti - pollution measures the chances of any adverse affect on agriculture, horticulture, fishery etc. will be negligible.


 (Rajen Sarmah)
 Regional Executive Engineer
 R.O.Nagaon.

P. K. Khasin
to P. Khasin
24/12/13
238

REGIONAL OFFICE, NAGAON
POLLUTION CONTROL BOARD, ASSAM
L.B.ROAD, HAIBORGAON, NAGAON.

NO.PCBA/RO/NGN/1-138/2011-12/104
307

Dated Nagaon the 23rd Dec' 2013

To,
✓ The Deputy Commissioner,
P.O: Morigaon,
Dist: Morigaon (Assam).

Sub: Joint Survey Report of Case No. WP(C) No. 1265/2012 Order Dated. 28.10.2013.

Ref: No. MRK.21/2012/171 Dated. 12.11.2013.

Sir,

With reference to the above, I have the honour to submit herewith the survey report of the aforesaid case no. for your kind needful please.

It is also inform you that all the inquiry officers will submit their respective report to you directly.

Yours faithfully

R. Sarmah
23.12.13
(Rajen Sarmah)

Regional Executive Engineer
R.O.Nagaon.

Memo No. PCBA/RO/NGN/T-138/2011-12/104-A

Dated. Nagaon the 23rd Dec' 2013.

Copy to:

1. Member Secretary, Pollution Control Board, Assam for favour of information please.

(Rajen Sarmah)

Regional Executive Engineer
R.O.Nagaon.

GAHC010152922019



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

Case No. : WP(C)/4604/2019

DILIP CHETRI
S/O- SHRI BHOPALSING CHETRI, R/O BONDA, CHANDRAPUR, HAJOBARI,
DIST. KAMRUP, ASSAM.

VERSUS

THE UNION OF INDIA AND 4 ORS.
REP. BY THE SECRETARY TO THE MINISTRY OF ENVIRONMENT AND
FOREST, NEW DELHI, PIN- 110003.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPTT.
DISPUR
GUWAHATI-6.

3:THE DIVISIONAL FOREST OFFICER
GUWAHATI WILDLIFE DIVISION
GUWAHATI-1.

4:THE DEPUTY COMMISSIONER
MORIGAON
DISTRICT- MORIGAON
ASSAM- 782104.

5:THE CIRCLE OFFICER
MAYONG REVENUE CIRCLE
DIST.- MORIGAON
ASSAM- 782121.

6:BHARAT SAIKIA
MEMBER OF MADHYA MAYONG UNNAYAN SAMITTEE

S/O- TARANIKANTA SAIKIA
 R/O VILL.- HILLOIKHUNDA
 P.O.- RAJAMAYONG
 DIST.- MORIGAON
 ASSAM
 PIN- 782411.

7:RANJIT SAIKIA
 MEMBER OF MADHYA MAYONG UNNAYAN SAMITTEE
 S/O- MUKUT SAIKIA
 R/O VILL.- SATIVETI
 P.O.- RAJAMAYONG
 P.S.- MAYONG
 DIST.- MORIGAON
 ASSAM
 PIN- 782411.

8:GIRIDHAR SAIKIA
 MEMBER OF MADHYA MAYONG UNNAYAN SAMITTEE
 S/O- LT. HANKHA RAM SAIKIA
 R/O VILL.- SATIVETI
 P.O.- RAJAMAYONG
 P.S.- RAJAMAYONG
 P.S.- MAYONG
 DIST.- MORIGAON
 ASSAM PIN- 782411.

9:DEBESWAR SAIKIA
 MEMBER OF MADHYA MAYONG UNNAYAN SAMITTEE
 S/O- LT. PRANA NATH SAIKIA
 R/O VILL.- SATIVETI
 P.O. - RAJAMAYONG
 P.S.- RAJAMAYONG
 DIST.- MORIGAON
 ASSAM PIN- 782411.

10:THE DIVISIONAL FOREST OFFICER
 NAGAON TERRITORIAL DIVISION NAGAON
 ASSAM-78200

Advocate for the Petitioner : Mr. P. K. Goswami, Sr. Advocate
 Mr. B. P. Borah, Advocate

Advocate for the Respondents : Mr. R. K. D. Choudhury, DSGI
 Mr. D. Gogoi, SC, Forest
 Mr. R. Baruah, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 30.08.2023

Date of Judgment : 30.08.2023

JUDGMENT AND ORDER (ORAL)

The instant writ petition has been filed by the petitioner challenging the order dated 02.03.2019 passed by the Deputy Commissioner, Morigaon; seeking for a direction upon the respondent No.4 to allow the petitioner to run his Brick Kiln; for a further direction upon the respondent Nos.1 & 2 not to submit the proposal for declaring Eco Sensitive Zone around Pobitora Wildlife Sanctuary at the earliest and move the Supreme Court as per the liberty given in its order dated 11.12.2018.

2. The facts involved in the instant writ petition is that the petitioner herein had purchased a Brick Industry vide two registered Deeds of Sale dated 23.08.2010. The petitioner, thereupon, applied for No Objection Certificate before the Respondent No. 4, i.e. the Deputy Commissioner, Morigaon for opening of the Brick Kiln in his name. The Respondent No. 4, by an order dated 02.09.2011, granted permission to operate the Brick Kiln on the said land thereby imposing certain conditions including procurement of required certificate from the Pollution Control Board, Assam. The Circle Office as well as the Mayong Gaon Panchayat gave No Objection. The land of the petitioner was subsequently reclassified as industrial land pursuant to an order dated 10.04.2013 passed by the Deputy Commissioner, Morigaon. It further reveals that the Member Secretary, Pollution Control Board, Assam issued 'Consent to Establish' on 28.10.2011 for setting up the Brick Industry. The petitioner, thereupon, spent huge amount of money as stated in the writ petition and after the establishment of the chimney etc., the petitioner applied for consent to operate from the respondent No.2 enabling him to run the brick industry. It reveals thereafter that there were various litigations between the petitioner and the private respondents before this Court. However, vide an order dated 23.11.2017 passed

in WA No.241/2017, there were certain directions passed by the Division Bench of this Court on the basis of a joint affidavit filed by the petitioner and the private respondents. In terms with the joint affidavit, the relevant portion of which is quoted herein below, certain terms and conditions were agreed upon by and between the petitioner as well as the private respondents. The said relevant paragraphs are quoted herein under:-

“1. That the Applicants respectfully submit that the Deputy Commissioner, Morigaon may be directed to decide as to whether the Brick Kiln in the name of M/s Bhawani Brick (BBA Brick, Proprietor Shri Dilip Chetri) should be allowed to run and whether the same will affect the Appellants’ surrounding land or the environment. The Deputy Commissioner, Morigaon while deciding the issue shall take into consideration the reports of the Pollution Control Board, Agricultural Officer and the Forest official afresh.

2. That the Applicants respectfully submit that all the concerned officials of Pollution Control Board, Agricultural Officer and Forest Officer should give their respective reports disclosing the scientific basis of such reports.

3. That the Applicants respectfully submit that the Deputy Commissioner, Morigaon may be directed to decide the issue after hearing the Appellant and the Private Respondent No.1, Sri Dilip Chetri.

4. That the Applicants respectfully submit that the Deputy Commissioner, Morigaon may be directed to decide the matter within a period of 4(four) weeks.”

3. The Division Bench of this Court, on the basis of the above quoted paragraphs vide the order dated 23.11.2017, set aside the judgment passed by the Coordinate Bench of this Court dated 13.06.2017 in WP(C) No.7048/2016 and directed the Deputy Commissioner, Morigaon to reach a decision on the matter with regard to the fate of the Brick Kiln after considering the reports of the stake holders mentioned in the joint affidavit and after affording opportunity of hearing the petitioner as well as the private respondents herein. The Division Bench of this Court further directed that until disposal of the matter by the Deputy Commissioner, Morigaon, the status-quo as on 23.11.2017 shall be maintained by the parties. The Deputy Commissioner, Morigaon was directed to

complete the exercise within the outer limit of four weeks. Subsequent thereto, the Deputy Commissioner, Morigaon passed the order dated 02.03.2019 whereby the No Objection Certificate issued dated 02.09.2011 was revoked on the ground of the greater interest of conservation and preservation of exclusive nature of Eco Sensitive Zone of the Pobitora Wildlife Sanctuary in pursuance to the Supreme Court's order dated 11.12.2018 passed in WP(C) No.202/1995 (in *TN. Godavarman Thirumulpad vs. the Union of India*). The said order dated 02.03.2019 has been put to challenge before this Court by way of the instant writ petition.

4. It reveals from the records that this Court had issued notice vide an order dated 28.09.2019 and further directed the respondents in the interim not to take any further follow up steps pursuant to the impugned order dated 02.03.2019 passed by the Deputy Commissioner, Morigaon. It reveals from the records that the respondent Nos.4, 6, 7, 8, 9 & 10 filed separate affidavit-in-opposition. The petitioner has also filed an affidavit-in-reply to the affidavit-in-opposition filed by the respondent No.4.

4. I have heard the learned counsels for the parties and perused the materials on record. From a perusal of the impugned order dated 02.03.2019 it transpires that the Deputy Commissioner, Morigaon, i.e. the respondent No.4 had revoked the NOC dated 02.09.2011 for establishment of the Brick Kiln on the ground that the Brick Kiln owned by the petitioner is located in the Eco Sensitive Zone around Pobitora Wildlife Sanctuary. This Court further finds it relevant to take note of the affidavit-in-opposition filed by the respondent No.4 to which the communication issued by the Divisional Forest Officer, Guwahati Wild Life Division to the Deputy commissioner, Morigaon District dated 18.02.2019 is enclosed as Annexure-I. This document is relevant taking into account that in the impugned order dated 02.03.2019, there is no reference to which order of the Supreme Court, the Deputy Commissioner, Morigaon had referred to. But in the said order, there is a reference to the communication issued on 18.02.2019 by the Divisional Forest Officer, Guwahati Wild Life Division whereto the order of the Supreme Court dated 11.12.2018 in

I.A. No.1000 in WP(C) No.202/1995 and WP(C) No.460/2004 were enclosed. Therefore, from the said communication dated 18.02.2019, it can be discerned that the Deputy Commissioner, Morigaon while passing the impugned order dated 02.03.2019 took into consideration the order of the Supreme Court dated 11.12.2018. The said order of the Supreme Court dated 11.12.2018 has been enclosed as Annexure-23 to the writ petition. Taking into account the relevance of the said order, the same is quoted herein under:-

“UPON hearing the counsel the Court made the following

ORDER

The learned ASG has informed us that there are 104 National parks and 558 Wildlife Sanctuaries making a, total of 662 National parks and Wildlife Sanctuaries in the country.

The proposals for declaring areas around these National Parks and Wildlife Sanctuaries as Eco Sensitive Zone have been received from State Governments/UT Administrations for 641 National Parks and Wildlife Sanctuaries. No proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries.

The proposals have been accepted and Notification has been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26.11.2018 and draft Notification has been prepared in respect of 206 National Parks and Wildlife Sanctuaries.

The declaration with regard to Eco Sensitive Zone is under Process with the Ministry of Environment, Forests and Climate Change (MoEF) as well as with the State Governments in respect of 146 National Parks and Wildlife Sanctuaries.

We expect the Ministry of Environment, Forests and Climate change to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest.

The proposals for 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MOEF are as follows:

ASSAM

1. Pobitora Sanctuary

JAMMU AND KASHMIR

2. Hemis High Altitude National Park

3. Kishtewar National Park

4. *Changthang Sanctuary*

5. *Hokersar Sanctuary*

6. *Trikuta Sanctuary*

KARNATAKA

7. *Jogimatti Sanctuary*

8. *Thimlapura Sanctuary*

9. *Yadahalli Chinkara Sanctuary*

MAHARASHTRA

10. *Deolgaon Rehekuri Sanctuary*

11. *Thane Creek Flamingo Sanctuary*

12. *Malvan Marine Sanctuary*

MANIPUR

13. *Siroi National Park*

14. *Khongjaingamba Ching Sanctuary*

MEGHALAYA

15. *Baghmara Pitcher Plant Sanctuary NAGALAND*

16. *Fakim Sanctuary*

17. *Puliebadze Sanctuary*

18. *Rangapahar Sanctuary*

UTTAR PRADESH

19. *Dr. Bhimrao Ambedkar Bird Sanctuary*

20. *Pilibhit Sanctuary*

WEST BENGAL

21. *Jorepokhri Sanctuary*

It is submitted by the learned Amicus that this issue has been pending since sometime in December, 2006. 12 years have gone-by but no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries mentioned above.

Under the circumstances, we direct that an area of 10 Kms around these 21 National Parks and Wildlife Sanctuaries be declared as Eco Sensitive Zone by the MoEF. The declaration be made by the MoEF at the earliest.

Liberty is granted to the State Governments to move an application for modification of this order along with proposal only two weeks after submission of the proposals to the MoEF.

List the matters at the end of February, 2019.

In the meanwhile, interim order to continue.”

I.A. NO. 176-177 IN WRIT PETITION C No. 460/2004

[APPLICATIONS FOR IMPLEADMENT AND DIRECTIONS]

No one is present on behalf of the applicant.

The applications are dismissed.”

5. A perusal of the above quoted order would show that proposal for 21 National Parks and Wildlife Sanctuaries were yet to be received by the Ministry of Environment and Forest which amongst others included the Pobitora Wildlife Sanctuary. The Supreme Court categorically directed in the said order that an area of 10 Kms around the 21 National Parks and Wildlife Sanctuaries includes the Pobitora Wildlife Sanctuary be declared as Eco Sensitive Zone by the Ministry of Environment and Forest. The said declaration was to be made by the Ministry of Environment and Forest at the earliest. Therefore, from the said order dated 11.12.2018, the Supreme Court did not declare an area of 10 Kms around Pobitora Wildlife Sanctuary as Eco Sensitive Zone, rather direction was issued to the Ministry of Environment and Forest to make the declaration at the earliest. On the other hand, if this Court takes into account the impugned order dated 02.03.2019, the Deputy Commissioner, Morigaon had revoked the No Objection Certificate dated 02.09.2011 on an assumption that the land wherein the petitioner's Brick Kiln Industry was located is in the Eco Sensitive Zone of Pobitora Wildlife Sanctuary. This aspect in the opinion of this Court was based upon an incorrect reading of the order passed by the Supreme Court on 11.12.2018 in the case of *TN. Godavarman Thirumulpad* (supra).

6. Be that as it may, when the matter was listed before this Court on 21.08.2023, this Court enquired as to whether the Ministry of Environment and Forest, Government of India had complied with the direction passed by the Supreme Court dated 11.12.2018 in *TN. Godavarman Thirumulpad* (supra). However, as the said query remained unanswered, this Court fixed the matter today for further consideration. When the matter was taken up today, Mr. D. Gogoi, the learned Standing Counsel Forest and Environment Department has placed an instruction issued by the Divisional Forest Officer, Guwahati Wildlife Division. The said instruction is kept on record and marked with the letter “X”. From a

perusal of the said instructions, it reveals that no draft proposal for notifying Eco Sensitive Zone of Pobitora Wildlife Sanctuary had been sent to the Central Government from the Office of the Principal Chief Conservator of Forest and Head of Forest Force, Assam. It was further mentioned that out of the total notified area of Pobitora Wildlife Sanctuary of 38.81 sq. krs., 10.98 sq. km. of Khas land has not been handed over to the Forest Department, the boundary of the Pobitora Wildlife Sanctuary, as per the Government notification dated 17.03.1998 had not been demarcated till date. To the said communication there are various enclosures. Amongst the various enclosures, it reveals that there is a communication issued by the Additional Principal Chief Conservator of Forest (SIO) of the Government of Assam who vide the communication dated 11.03.2020 had informed that the Ministry of Environment and Forest and Climate Change, Government of India had not issued any notification declaring the Eco Sensitive Zone of Pobitora Wildlife Sanctuary, in terms with the order dated 11.12.2018 passed by the Supreme Court in *TN. Godavarman Thirumulpad* (supra).

7. Today, when the matter was taken up, the Union of India represented by the Secretary to the Ministry of Environment and Forest was represented by Mr. R. K. D. Choudhury, the learned Deputy Solicitor General of India who upon a specific query being made also apprised this Court that till date, no notification has been issued by the Ministry of Environment and Forest, New Delhi as per the direction dated 11.12.2018 passed by the Supreme Court in the case of *TN. Godavarman Thirumulpad* (supra).

8. This Court, therefore, after considering the order dated 11.12.2018 passed by the Supreme Court in *TN. Godavarman Thirumulpad* (supra) where only a direction was issued to the Ministry of Environment and Forest, Government of India to make a declaration and the assumption of the Deputy Commissioner, Morigaon on the basis of the said order that the Pobitora Wildlife Sanctuary has been declared to be an Eco Sensitive Zone for which the impugned order was passed in the opinion of this Court suffers from perversity and is accordingly not sustainable in law, for which the said order dated 02.03.2019 is set aside and quashed.

9. This Court before concluding also finds it relevant to observe that various submissions have been made by Mr. R. Baruah, the learned counsel representing the private respondents as well as also by Mr. D. Gogoi, the learned Standing Counsel appearing on behalf of the Forest Department, Government of Assam that the Brick Kiln ought not be permitted despite the fact that there is no direction by the Ministry of Environment and Forest, Government of India as was otherwise required to do so in view of the order dated 11.12.2018 passed by the Supreme Court in *TN. Godavarman Thirumulpad* (supra).

10. It is observed by this Court that as the order dated 02.03.2019 was passed only on the consideration that the Brick Kiln of the petitioner is situated in a Eco Sensitive Zone which was on the face of it perverse, this Court had set aside the same. Under such circumstances, the Deputy Commissioner, Morigaon would therefore, be required to carry out the exercise in terms of the order passed by the Division Bench of this Court dated 12.11.2017 passed in WA No.241/2017 afresh thereby considering the report of the stake holders and after giving due opportunity of hearing to the petitioner as well as the private respondents herein.

11. The various contentions so raised by Mr. R. Baruah, the learned counsel appearing on behalf of the private respondents and Mr. D. Gogoi, the learned Standing Counsel, Forest Department can be raised before the Deputy Commissioner, Morigaon as it is also the mandate of the order passed by the Division Bench of this Court.

12. Accordingly, the instant writ petition, therefore, stands disposed of with the following observations and directions:-

(i) The order dated 02.03.2019 passed by the Deputy Commissioner, Morigaon by which the No Objection Certificate issued to the petitioner dated 02.09.2011 was revoked, is set aside and quashed;

(ii) The Deputy Commissioner, Morigaon is directed to decide afresh within a period of 8 (eight) weeks from today as regards the No Objection Certificate so issued in favour of the petitioner after considering the reports of the stake holders

and giving opportunity of hearing to the petitioner as well as the private respondents herein and also taking into account the order dated 23.11.2017 passed by the Division Bench of this Court in WA No.241/2017. The Department of Forest and Environment, Government of Assam as well as the private respondents are permitted to bring to the notice of the Deputy Commissioner, Morigaon any further development in respect to the Pobitora Wildlife Sanctuary and more particularly to the order dated 26.04.2023 passed by the Supreme Court in *T.N. Godavarman Thirumulpad* , reported in (2023) SC OnLine SC 504.

(iii) This Court further directs that till the decision is rendered by the Deputy Commissioner, Morigaon which this Court directs to do so within the period of 8 (eight) weeks from the date a certified copy of the instant order is served, status-quo be maintained by the parties.

JUDGE

Comparing Assistant

GAHC010187562024



2024:GAU-AS:9889

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

Case No.: WP(C)/1942/2024

BHARAT SAIKIA AND 9 ORS.
S/O- TARANIKANTA SAIKIA
R/O- VILL.- HILLOIKHUNDA
P.O. RAJAMAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

2: RATUL SAIKIA
S/O- MAHENDRA SAIKIA
R/O- VILL.- SATIVETI
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

3: RANJIT SAIKIA
S/O- MUKUT SAIKIA
R/O- VILL.- SATIVETI
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

4: GIRIDHAR SAIKIA
S/O- LATE HANKHA RAM SAIKIA
R/O- VILL.- SATIVETI
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

5: ATUL SAIKIA
S/O- MINAI SAIKIA
R/O- VILL.- SATIVETI
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

6: JIBAN SAIKIA
S/O- LATE PIPARU SAIKIA
R/O- VILL.- SATIVETI
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

7: NIPUL SAIKIA
S/O- LATE NABIN SAIKIA
R/O- VILL.- SATIVETI
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

8: NABA KANTA SAIKIA
S/O- LATE BANIKANTA SAIKIA
R/O- VILL.- SATIVETI
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

9: CHABIRAM SAIKIA
S/O- LATE BANESWAR SAIKIA
R/O- VILL.- JHARGAON
P.O. RAJAMAYONG
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN- 782411.

10: BIKASH SAIKIA
S/O- LATE TAJU UJA SAIKIA

R/O- VILL.- OUGURI
 P.O. RAJAMAYONG
 P.S. MAYONG
 DIST. MORIGAON
 ASSAM

PIN- 782411. ALL THE WRIT PETITIONERS ARE MEMBER OF THE MADHYA
 MAYONG UNNAYAN SAMITTEE
 MAYONG
 MORIGAON.
 VERSUS

THE STATE OF ASSAM AND 11 ORS
 REPRESENTED BY THE COMMISSIONER AND SECRETARY
 DEPARTMENT OF ENVIRONMENT AND FOREST
 GOVT. OF ASSAM
 DISPUR
 GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY
 DEPARTMENT OF ENVIRONMENT AND FOREST
 GOVT. OF ASSAM
 DISPUR
 GUWAHATI-6.

3:THE DISTRICT COMMISSIONER
 DIST. MORIGAON
 ASSAM

4:THE CIRCLE OFFICER
 MAYONG REVENUE CIRCLE
 DIST. MORIGAON
 ASSAM

5:THE DISTRICT AGRICULTURE OFFICER
 DIST. MORIGAON
 ASSAM

6:THE DIVISIONAL FOREST OFFICER
 GUWAHATI WILDLIFE DIVISION
 SANTIPUR
 GHY-9
 DIST. KAMRUP(M)
 ASSAM

7:THE DIVISIONAL FOREST OFFICER
 NAGAON DIVISION
 NAGAON
 ASSAM

8:THE POLLUTION CONTROL BOARD

ASSAM
 REP. BY THE CHAIRMAN
 BAMUNIMAIDAM
 GHY-21
 ASSAM

9:THE MEMBER SECRETARY
 POLLUTION CONTROL BOARD

ASSAM
 BAMUNIMAIDAM
 GHY-21
 ASSAM

10:THE REGIONAL EXECUTIVE ENGINEER
 POLLUTION CONTROL BOARD

NAGAON
 ASSAM

11:THE UNION OF INDIA
 MINISTRY OF ENVIRONMENT AND FOREST
 PARYAVARAM BHAWAN CGO COMPLEX
 LODHI ROAD
 NEW DELHI-110003.12:DILIP CHETRY
 S/O- BHOPAL SING CHETRY
 PROPRIETOR OF M/S BHAWANI BRICK (BBA BRICK) BONDA
 CHANDRAPUR
 HAJOBARI
 DIST. KAMRUP
 ASSAM

Advocate for the Petitioners : Mr. R. Baruah, Advocate

Advocate for the Respondents : Mr. D. Gogoi, SC, Forest
 Mr. S. Baruah, Advocate
 Ms. C. Barah, Advocate
 Ms. S. Baruah, Govt. Advocate
 Mr. P. K. Goswami, Sr., Advocate
 Mr. B. P. Borha, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 27.09.2024

Date of Judgment : 27.09.2024

JUDGMENT AND ORDER (ORAL)

Heard Mr. Mr. Mr. R. Baruah, the learned counsel appearing on behalf of the petitioners. Mr. D. Gogoi, the learned counsel appears on behalf of the respondent Nos.1, 2, 6 & 7; Ms. S. Baruah, the learned counsel appears on behalf of the respondent Nos.3 & 4; Ms. C. Borah, the learned counsel appears on behalf of the respondent No.5; Mr. S. Baruah, the learned counsel appears on behalf of the respondent Nos.8, 9. & 10 and Mr. P. K. Goswami, the learned senior counsel assisted by Mr. B. P. Borah, the learned counsel appears on behalf of the respondent No.12.

2. The instant writ petition has been filed challenging the order dated 19.02.2024 passed by the Deputy Commissioner, Morigaon whereby the Deputy Commissioner, Morigaon reinstated the No Objection Certificate issued vide No.MRK.21/2011/13 dated 02.09.2011 for establishment of the BBA Brick Kiln. The petitioners have challenged the said order dated 19.02.2024 on the ground that the said order was passed in complete violation to the order passed by the learned Division Bench of this Court in WA No.241/2017 as well as the directions passed by this Court in its order dated 30.08.2023 in WP(C) No.4604/2019.

3. Mr. R. Baruah, the learned counsel appearing on behalf of the petitioners submitted that in the consent order which was passed by the

learned Division Bench on 23.11.2017 in WA No.241/2017, it was agreed to that the District Commissioner, Morigaon shall take into consideration the scientific basis of the report of the Pollution Control Board of Assam, Agricultural Officers and Forest Officials which were to be placed before the said District Commissioner prior to passing of the said order. The learned counsel for the petitioners submitted that a perusal of the impugned order dated 19.02.2024 would show that these aspects were not at all taken into consideration and the District Commissioner, Morigaon had based its order on the basis of the report of the Pollution Control Board of Assam dated 25.10.2011 as well as the report of the Agricultural Development Officer issued prior to the consent order passed by the learned Division Bench. The learned counsel for the petitioners further submitted that a perusal of the impugned order would only show that only the report of the Circle Officer as well as the Divisional Forest Officer, Nagaon Division was taken into consideration.

4. Mr. S. Baruah, the learned counsel appearing on behalf of the Pollution Control Board of Assam submitted that as per the brick kiln norms set out by the Ministry of Environment and Forest and Climate Change of the Government of India, certain new technologies have been mandated to be installed.

5. Ms. C. Borah, the learned counsel appearing on behalf of the Agricultural Development Officer submitted that there is a report dated 10.11.2023 wherein the District Agricultural Officer had given scientific basis for its earlier report and stated that the land in question would not be suitable for major agricultural practice and perhaps may be reclassified.

6. Mr. P. K. Goswami, the learned senior counsel appearing on behalf of

the respondent No.12 submitted that the respondent No.12 pursuant to the consent to establish has already setup its brick kiln industry as per revised norms formulated by the Ministry of Environment and Forest and Climate Change of the Government of India in respect to brick kiln industries. In support of the submission, the learned senior counsel for the respondent No.12 has also placed before this Court the relevant documents evidencing the new technology used to establish brick kiln industry.

7. I have heard the learned counsel appearing on behalf of the parties and also perused the materials on record. From the materials on record, it transpires that the learned Division bench of this Court in its order dated 23.11.2017 had recorded the consensus arrived at by the parties in the said proceedings. The relevant paragraphs of the order dated 23.11.2014 regarding the consensus arrived at amongst the parties are reproduced herein under:-

“1. That the Applicants respectfully submit that the Deputy Commissioner, Morigaon may be directed to decide as to whether the Brick Kiln in the name of M/s Bhawani Brick (BBA Brick, Proprietor Shri Dilip Chetri) should be allowed to run and whether the same will affect the Appellants’ surrounding land or the environment. The Deputy Commissioner, Morigaon while deciding the issue shall take into consideration the reports of the Pollution Control Board, Agricultural Officer and the Forest official afresh.

2. That the Applicants respectfully submit that all the concerned officials of Pollution Control Board, Agricultural Officer and Forest Officer should give their respective reports disclosing the scientific basis of such reports.

3. That the Applicants respectfully submit that the Deputy Commissioner, Morigaon may be directed to decide the issue after hearing the Appellant and

the Private Respondent No.1, Sri Dilip Chetri.

4. That the Applicants respectfully submit that the Deputy Commissioner, Morigaon may be directed to decide the matter within a period of 4(four) weeks."

8. It is seen from the above quoted consensus arrived at amongst the parties that the Deputy Commissioner, Morigaon presently the District Commissioner, Morigaon was directed to decide as to whether the brick kiln to be setup by the respondent No.12 should be allowed to run and was also to consider as to whether the same would affect the writ petitioners herein in respect to their land or the environment. It was further recorded that the Deputy Commissioner, Morigaon while deciding the issue shall take into consideration the report of the Pollution Control Board of Assam, Agricultural Officer as well as the Forest Officials afresh. In addition to that, it was also recorded that the concerned officials of the Pollution Control Board of Assam, Agricultural Officer and the Forest Officer should submit their respective report disclosing the scientific basis of their reports.

9. This Court finds it apposite to take note of that pursuant to the said directions issued by the learned Division Bench dated 23.11.2017, an order was passed by the Deputy Commissioner, Morigaon on 02.03.2019 whereby the No Objection Certificate which was issued in favour of the respondent No.12 was rejected. It is under such circumstances, a writ petition was filed being WP(C) No.4604/2019. This Court vide the judgment and order dated 30.08.2023 had disposed of the said writ petition by issuing certain directions. The said directions are mentioned in paragraph No.12 of the said judgment and order and for the sake of

convenience, the same are reproduced herein under:-

12. Accordingly, the instant writ petition, therefore, stands disposed of with the following observations and directions:-

(i) The order dated 02.03.2019 passed by the Deputy Commissioner, Morigaon by which the No Objection Certificate issued to the petitioner dated 02.09.2011 was revoked, is set aside and quashed;

(ii) The Deputy Commissioner, Morigaon is directed to decide afresh within a period of 8 (eight) weeks from today as regards the No Objection Certificate so issued in favour of the petitioner after considering the reports of the stake holders and giving opportunity of hearing to the petitioner as well as the private respondents herein and also taking into account the order dated 23.11.2017 passed by the Division Bench of this Court in WA No.241/2017. The Department of Forest and Environment, Government of Assam as well as the private respondents are permitted to bring to the notice of the Deputy Commissioner, Morigaon any further development in respect to the Pobitora Wildlife Sanctuary and more particularly to the order dated 26.04.2023 passed by the Supreme Court in T.N. Godavarman Thirumulpad , reported in (2023) SC OnLine SC 504.

(iii) This Court further directs that till the decision is rendered by the Deputy Commissioner, Morigaon which this Court directs to do so within the period of 8 (eight) weeks from the date a certified copy of the instant order is served, status-quo be maintained by the parties.

10. In the backdrop of the above, this Court had perused the impugned order dated 19.02.2024. It would be seen that the District Commissioner, Morigaon had taken into account the report of the Circle Officer, Morigaon revenue Circle as well as the report of the Divisional Forest Officer, Nagaon Division. However, in the said impugned order, there are no

references to any scientific reports submitted afresh by the Pollution Control Board of Assam as well as the Agricultural Development Officer. Under such circumstances, in the opinion of this Court, the impugned order dated 19.02.2024 is contrary to the specific directions passed by the learned Division Bench of this Court vide the order dated 23.11.2017 in WA 241/2017 as well as the directions passed by this Court at paragraph No.12 (ii) of the judgment and order dated 30.08.2023 passed in WP(C) No.4604/2019.

11. Accordingly, this Court interferes with the impugned order dated 19.02.2024 and the same is set aside and quashed.

12. Mr. P. K. Goswami, the learned senior counsel appearing on behalf of the respondent No.12 submitted that for the last 12 to 13 years, the respondent No.12 has not been able to establish its brick kiln industry inspite of setting it up with conformity with the new guidelines issued by the Ministry of Environment and Forest pursuant to the Consent issued by the Pollution Control Board of Assam. The learned senior counsel for the respondent No.12 further submitted that after issuance of the Consent to Operate, the respondent No.12 has also operated its brick kiln industry and any delay in consideration by the District Commissioner, Morigaon in respect to the No Objection Certificate would seriously affect the respondent No.12.

13. Taking into account the above, this Court disposes of the instant writ petition with the following observations and directions:-

(i) The Pollution Control Board of Assam is directed to submit a fresh report as regards the respondent No.12 Brick Kiln within a period of

4 (four) weeks from today and not later than 23.10.2024 before the District Commissioner, Morigaon.

(ii) The District Agricultural Officer is also directed to submit a fresh report to the District Commissioner, Morigaon in respect to the land wherein the respondent No.12's Brick Kiln is established within 23.10.2024.

(iii) It is also seen from the impugned order dated 19.02.2024 that the reports of the Circle Officer, Morigaon Revenue Circle as well as the Divisional Forest Officer, Nagaon Division have already been submitted, and as such, there would be no further necessity of submission of any further report(s).

(iv) This Court directs that upon receipt of the said reports as above mentioned the District Commissioner, Morigaon shall fix a date for hearing the petitioners and the respondent No.12. This Court directs that the petitioners and the respondent No.12 be heard before issuing any order. The District Commissioner, Morigaon, if deems necessary may call the concerned officials for arriving at a decision. The entire exercise be completed within 4 (four) weeks from 23.10.2024.

JUDGE

Comparing Assistant



120
Pollution Control Board, Assam
(Department of Environment & Forests, Government of Assam)

অসম প্ৰদূষণ নিয়ন্ত্ৰণ পৰিষদ
(অসম চৰকাৰৰ বন আৰু পৰিৱেশ বিভাগ)

NABL Accredited Testing Laboratory : Certificate No. TC-11384

Annexure-XV



No.PCBA/LGL-235/2024/GHC/183

Dated Guwahati the 23rd Oct, 2024

To : ✓ The District Commissioner,
District: Morigaon
Assam
email- dc-morigaon@nic.in,
deputycommissionermorigaon@gmail.com

Sub : WP (C) No. 1942/2024 (Sri Bharat Saikia and 9 Ors V/s The State of Assam and 11 Ors)

Ref : i. Hon'ble court order dated 27.09.2024
ii. Your letter vide no. MRK.11/2023/154 dated 16/10/2024

Sir,

With reference to the subject above, I would like to submit herewith the Report of the Board in compliance of the order of the Hon'ble High Court in the matter of WP (C) 1942/2024 (Sri Bharat Saikia and 9 Ors V/s The State of Assam and 11Ors) passed on 27th Sept., 2024 for your consideration for further course of action

Encl: As stated

Yours sincerely,


(G. Bhuyan)
CEE & Nodal Officer (Legal)

Memo No.PCBA/LGL-235/2024/GHC/183-A

Dated Guwahati the 23rd Oct, 2024

Copy to:

Regional Officer, RO Nagaon. He is requested to follow up the matter with the DC Morigaon.


Nodal Officer (Legal)



**Report on M/s Bhawani Bricks (BBA Bricks), Chengmari Kisam,
Mayong, Dist: Morigaon in Compliance of the order of Hon'ble Gauhati High Court in the
matter of
WP(C) 1942/2024 passed on 27.09.2024**

Observations and Comment:

1. The plot of land of M/s Bhawani Brick (BBA) is an Industrial Class land and it was an abandoned brick kiln owned by Sri Dilip Kumar Mazumdar. Sri Dilip Kumar Mazumdar established a Brick kiln on the subject plot in the year 2005. In this regard following documentary evidences are enclosed herewith-
 - i. Certificate of Land ownership issued by the then Circle officer. (**Annexure-I**).
 - ii. Certificate of the Circle Officer regarding establishment of a Brick Kiln on the subject plot in 2005. (**Annexure-II**).
 - iii. No- Objection certificate of Government Gaon Burah issued on 18.10.2004. (**Annexure-III**).
 - iv. Permission for establishment of Brick Kiln of Mayang Anchalik Panchayat issued on 25.06.2004. (**Annexure-IV**).
 - v. Permission for establishment of Brick Kiln of 20 No. Mayang Gaon Panchayat. (**Annexure-V**).
 - vi. NOC of Mayang Gaon Panchayat for establishment of Brick Kiln issued on 02.04.2004. (**Annexure-VI**).
2. The said land was purchased by Sri Dilip Chetri, S/o- Bhopal Singh Chetri, resident of Bonda, Chandrapur, Hajobari, Dist: Kamrup (M) from Sri Dilip Kumar Mazumdar, S/o- Hiralal Mazumdar, resident of Chandrapur, Mouza- Panbari, Dist: Kamrup (M) vide registered deed No 1277/2010 dtd. 23.08.2010 and 1278/2010 dtd. 23.08.2010. (Copy enclosed as **Annexure – VII** and **Annexure – VIII** respectively).
3. The project proponent obtained NOC from Agricultural Development Officer, Rajamayong Circle, Morigaon and Gaon Pradhan of the said area and also from the Secretary, Mayong Gaon Panchayat vide No MGP/9/2008-09/2051 dtd.02.08.2008 NO.MGP/9/2011-12/8053 dtd.10/11/2012 and NO.MGP/9/2022-23/8053 dtd. 29/05/2023 respectively to re-establish the said brick kiln.
4. As per the report submitted by the Circle Officer, Mayong Revenue Circle vide letter No. MYC.24/2018/517 dtd. 02/11/2023, the distance of the said brick kiln from Burhamayong (Mayong Parvat Hill) RF (nearest point) is 1212 meters and from the periphery to Pobitora Wildlife Sanctuary is 2130 meters and fulfil all norms laid in the Guidelines of Pollution Control Board, Assam for Brick Manufacturing Industries. (Fresh Inspection Report of Pollution Control Board, Assam is enclosed as **Annexure-IX**)
5. The Divisional Forest Officer, Nagaon Division also submitted report vide letter No. FNGT/B/58/WP (C)/No 4604/2023/8829 dated 30.12.2023, as per which the notification

in regards to Eco-sensitive zone in respect of the Pobitora Wildlife Sanctuary is under process and not finalized yet.

6. The Pollution Control Board, Assam has issued 'Consent to Establish' certificate for establishment of M/s BBA Brick Kiln owned by Sri Dilip Chetri, S/o – Bhopal Singh Chetri, resident of Bonda, Chandrapur, Hojabari, Dist- Kamrup (M) vide letter No-WB/RONG/T-II/11-12/27-1075 dated: 25.10.2011 and 'Consent to Operate' vide No. WB/RONG/T-II/11-12/579 dated: 21.03.2024 with necessary terms and conditions for prevention and control of Pollution from the unit. Further, it may be noted that as per record available with the Board the Unit was in operation during the period from 21.03.2024 to 06.05.2024. Stack Emission Monitoring was carried out by M/S ABNS Scientific Services (Authorised Laboratory of PCBA) on 29/03/2024 and Particulate Matter Emission was mentioned as 248 mg/Nm³ against permissible limit of 750 mg/Nm³. At present the conversion of existing BTK (Bull Trench Kiln) to Zig Zag Technology Kiln is near completion and after completion of conversion to Zig Zag Technology, Pollution emission level shall be decreased upto 30%. It may be commented that there is not any apprehension of Environmental hazard and health hazard from this unit. (The Stack Emission Monitoring report is enclosed as **Annexure-X.**)
7. At the time of recent visit of the officials of the Board 18/10/2024 it was found that there was no human habitation, School, Hospitals, Worship places nearby M/s BBA Brick Kiln. As per record available with this Board, the nearest habitation is at 569.39 meters distance away from M/s BBA Brick Kiln.
8. The said Brick Kiln adopted the Zig Zag Technology (work nearing completion) in compliance of the Ministry of Environment, Forest and Climate Change Notification dated 22nd February, 2022 for enhancement of Pollution Control efficiency.

Recommendation: Based on Fresh Inspection Report and relevant documents including Stack Emission Monitoring Report it is recommended to accord permission to M/s Bhawani Bricks (BBA Bricks), Chengmari Kisam, Mayang, Dist- Morigaon located on the plot of land covered by Dag No-124 under patta No-19 of Chengsari Kisam Gaon to continue its operation after completion of Conversion to Zig Zag Technology Brick Kiln subject to adoption of all requisite Pollution Control measures as per Consent to Operate of this Board.

This report is issued without any prejudice.



(G. Bhuyan)
CEE & Nodal Office (Legal)

খণ্ড নং -

অসম



চৰকাৰ

স্মাৰক নং
2881



চক্ৰ বিষয়াৰ কাৰ্য্যালয় মায়ং ৰাজহ চক্ৰ

নং এম. ওবাই. চি - ১২/২০০২-২০০৩

মাটি থকাৰ প্ৰমাণ পত্ৰ

তাং ২০/১২/০৪

প্ৰমাণ পত্ৰ দিয়া হয় যে, মায়ং ৰাজহ চক্ৰৰ অন্তৰ্গত

মৌজাৰ ১০১ মাৰী মাটি কিচামচতৰ ২২ নং ম্যাৰী পট্টাৰ

২২৪ নং দাগত ২২৭০০ একিমাৰ বিঘা দুই

কোঠা (১০০০০) মাটি সৈয়দুল্লাহ মজুমদাৰ

বিহাৰ সৈয়দুল্লাহ মজুমদাৰ নং ১০০০ চক্ৰ

মৃত সৈয়দুল্লাহ মজুমদাৰ পুত্ৰ শ্ৰী

নামত পট্টা চলি আছে।

উক্ত প্ৰমাণ পত্ৰ ২৪/১২/০৪ তাৰিখৰ ৬-১১/০৪ নং আবেদনৰ

ওপৰত দিয়া লাট মণ্ডলৰ প্ৰতিবেদনৰ ভিত্তিত দিয়া হ'ল।

স্বাক্ষৰ
২৪/১২/০৪
চক্ৰ বিষয়া
মায়ং ৰাজহ চক্ৰ
চক্ৰ বিষয়া

অসম চৰকাৰ
চৰণ বিষয়াৰ কাৰ্যালয়, মাযুং ৰাজহ চৰণ ।

নং:-এম,ওৰাই,চি ৩২/২০০৪-২০০৫/

তাৰিখ:-২৬/১০/২০০৫

///যাৰ ক্ষেত্ৰত প্ৰযোজ্য///



প্ৰমান পত্ৰ দিয়া হয় যে, মাযুং ৰাজহ চৰণৰ অন্তৰ্গত মাযুং যোজাৰ
চেংমাৰী কিচামতৰ ১১ নং ম্যাদী পট্টাৰ ১২৪ নং দাগৰ ২১ বিঘা ২ কঠা ১০ লোচা
মাটি শ্ৰী দিলিপ মজুমদাৰ যিটা:-শ্ৰী হীৰালাল মজুমদাৰ নামত পট্টা চলি আছে। উক্ত
মাটি খেতিৰ উপযোগী নোহোৱাত ইটা ভাটা বলা দেখা যায়। আৰু উক্ত মাটি
ইটা ভাটাৰ উপযোগী মাটি হয়। উক্ত মাটি বেংকতখনৰ বাবে ব্যৱহাৰ কৰাত
কোনো আপত্তি নাই।

উক্ত মাটিৰ ব্যৱহাৰ বাবে বেংক কণ্ঠফাই বন্ধকী হিচাবে লৈ
শ্ৰী দিলিপ মজুমদাৰক বন্দুদান কৰিব পাৰে।

উক্ত প্ৰমান পত্ৰ ২৬/১০/২০০৫ তাৰিখৰ ৬০১৪/০৫ নং
আবেদনৰ ওপৰত দিয়া লাট মণ্ডলৰ প্ৰতিবেদনৰ ভিত্তিত দিয়া হল।

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২৬/১০/০৫
৬০১৪/০৫
৯৯৯৯

আপত্তি বিহীন-অক্ষয় পত্র

ইসার দ্বারা-অক্ষয় পত্র বিহীন হইল যে;
শ্রী দিলীপ মজুমদার, পিতা-শ্রী হীরামাল মজুমদার
আব-হুদুদ. আলা-আলাজ্জামতিম পুত্র,
বিলা-কমলপ (অক্ষয়)

উক্ত ক্রটি পূর্বে কোমিটি বিচক্ষণক পুঁঠে
মিডা-মাদে মাদে দ্বারা-নং-১২৪, অর্থাৎ-১০
মাদেই ইচ্ছা-কোমি মাদে মাদে-অক্ষয়-অক্ষয়
করাব মাদে পুঁঠে উক্তে করিব-বিচক্ষণে। ইচ্ছা
মোহ কোমি-আপত্তি নাই।

স্বাক্ষর
শ্রী বাবুল মজুমদার
চাকারী পুঁঠে
পাও নোনমাট, মৌজাখানা-মাং
চাকারী-বজামাং, মৌজাখানা : অক্ষয়
তাং-২৬/৩০/০৯



মায়ং আঞ্চলিক পঞ্চায়ত

সদস্য

২০ নং মায়ং গাওঁ পঞ্চায়ত

জিলা - মৰিগাওঁ (আজম)

পিন - ৭৮২৪১১

শ্রী প্রধান চন্দ্ৰ নাথ

প্রসংগ

ইটা- ভাটন- হুমালাৰ বাবু

দিনাংক ২০/৫/১০

অনুমতি প্রদান,

শ্রী দিলীপ- মজুমদাৰ পি. শ্রী বীৰালাল
আও - চন্দ্ৰ পুৰ, মানা আগজ্যোতিষ পুৰ
জিলা - কাছাৰ (আজম)

ইয়াৰ দ্বাৰা প্রদান করা
উপৰত উল্লেখিত ব্যক্তি জনক
কোঁ আৰি কিয়লৈও ৫০০ৰ নিজা হুজুৰি
দাখিল, ২২৪ প্ৰদান, ২২ আৰু ইটা
ভাটন- হুমালাৰ নিবুৰা আৰু আৰু
কৰাৰ লগতে আৰু আৰু উন্নতি
কৰাৰ লগে লগে; আৰু আৰু
অনুমতি প্রদান করা হৈছে
উক্ত আৰু আৰু হৈছে।

শ্রী প্রধান চন্দ্ৰ নাথ

সদস্য
২০ নং মায়ং আঞ্চলিক পঞ্চায়ত
২০ নং মায়ং গাওঁ পঞ্চায়ত
পিন - ২০৮৫০০



OFFICE OF THE MAYONG GAON PANCHAYAT

কাৰ্যালয় মায়ং গাঁও পঞ্চায়ত
RAJA MAYONG, MORIGAON (ASAAM)

Ref. No. M.G.P./9/2008-09/২০৮৭

Date 02/08/08

বিষয়ঃ গোপালি বিহীন জম্মান পত্ৰ।

ইয়াৰ দ্বাৰা জম্মান পত্ৰ দিয়া হ'ল মে, ৩০১ দিনী না কুম্ভাৰ অক্ষয়
নিষ্ঠা ৩০১ ছিৰালাল অক্ষয়দাৰ গাঁও- চক্ৰ পুৰ পোঃ অঃ চক্ৰ পুৰ
থানা- আগাজ্যতিয় পুৰ জিলা- কামৰূপ (অসম)।

উক্ত লোকজন চেংসাবী কিছাৰতৰ ২৩ নং পত্ৰ ২২৪
নং- দাগৰ নিজ নামৰ মাটিত ইতি ভাৰত স্থানিত গাঁও
পঞ্চায়তৰ কোনো গোপালি নাই।

B. Barua
02/08/08
Secretary
Mayong Gaon Panchayat

P. Barua
President
Mayong Gaon Panchayat
Date.....



Memo No. MRK 19 | 2008 | Pt I | 29

Date: 30/7/2010

OJAA 175094

১৯৯৮ চনৰ ১৩ নং আইনৰ অধীনত
 ১৯৯৯ চনৰ (১৯৮৪) নং আইনৰ অধীনত
 গভৰ্ণমেণ্টৰ দ্বাৰা অনুমোদিত
 আয়কৰ আইন, ১৯৬১ চনৰ অধীনত
 উল্লেখ কৰা হৈছে।

[Signature]
 ২৩/৮/১০
 অতিরিক্ত, বণিক
 অফিস: কল

স্বীকৃতিপত্ৰ
 কলকাতা
 ৩০/৭/১০

A=19,500/-

৩। বধাৰণ — ডেবাৰী এচোচিয়েটেড - স্টাৰ্টেড লিমিটেড-
 ট্ৰে - স্পৰ্শাৰিকাৰী - শ্ৰী - দিলীপ চেমী - পিতা শ্ৰী হিৰা -
 দুৰ্গালাল - চেমী - সাং - বোন্দা - হাজোবৰি - চন্দ্ৰপুৰ -
 মৌজা - পান বাৰী - মানা - প্ৰাগ জ্যোতিষ পুৰ - চাব -
 ষ্ৰেণ্ডিষ্কাৰ - অমিচ - শুভাৰ্চাটী - জিনা কামৰূপ অসম

সন্মিতঃ — শ্ৰী - দিলীপ কুমাৰ ব্ৰহ্মদাৰ - পিতা - শ্ৰী
 হিৰা লাল - মজুমদাৰ - জাতি হিন্দু - ব্ৰহ্মসাম -
 শুভাৰ্চাটী - সাং - চন্দ্ৰপুৰ - মৌজা - পান বাৰী -
 মানা - প্ৰাগ জ্যোতিষ পুৰ - চাব ষ্ৰেণ্ডিষ্কাৰ - অমিচ -
 শুভাৰ্চাটী - জিনা - কামৰূপ - অসম - ।

3; - 20/7/2010

Issued to... Address...
Sl. No. 13 C.R. 1000... City

[Signature]
Stamp Assistant
Motigaon Treasury
Date 21/5/10



26/6/20
श्री. कि.ली.प. - कुमार - ककुमार -
23/8/10
2318110

श्री. कि.ली.प. कुमार ककुमार



श्री. कि.ली.प. कुमार ककुमार



श्री. कि.ली.प. - कुमार ककुमार

श्री. कि.ली.प. कुमार

श्री. कि.ली.प. कुमार ककुमार
23/8/10



বিচারিক আদালত
 সত্যমেব জয়তে

২। কন্ঠ স্মার্ট বিক্রী চার্জ কাগজমা-মত পত্র সিদ্ধি -
 কন্ঠ স্মার্ট - মিহিচুক - মোষ - টকাষ বিলিম আশ্রুক
 প্রায়ত - উক্ত - বসাবসষ পক্ষা নগদ ৬,৫৫৫৫০.০০
 (তিনি নাম) নাম - টকাঙ্গে - মোষ নিজ নাম্ব -
 পাড়াষ - নিজ বকা সূত্র - দমনষ - ইতি পূর্ক - আনষ
 উষত - ক্রোনা - বক্রম - দায় - সঃমাগ নমতা -
 নিম্ন - তনদিল - উ - চাইদ বনিতি - ১০ বিধা -
 স্যাদী - স্মার্ট - উক্ত - টকাঙ চার্জ বিক্রী জষি -
 কাকিমেরি - বিক্রীত - স্মার্টষ - দমন সূত্র বসাবসক -
 চক্রি দিলো.

২৩-২৬।৮।২০১০



স্বাধীনতা অর্থাৎ
 স্বাধীনতা অর্থাৎ
 স্বাধীনতা অর্থাৎ

৩। আজিষ পৰা উক্ত বিক্রীত-স্মারিত-মোৰ সন্ধান-
 স্বত্ব-স্বত্বাধিকার-বহিত হি-বসায়সৰ ওপৰত বহুতম
 বসাবলৈ-মোৰ-স্বত্ব-স্বত্বান-হি-মোৰ সন্ধানত
 বা-অসন্ধানত-বিক্রীত-স্মারিত-নিজ নামত-
 নাম-জাৰি-কৰা হৈ-ওকালিমান-আমে-
 লোগ-দমন-অধি-দান-বিক্রী-অন্য সন্ধান-
 বৃত্তান্ত-আদি-স্বাক্ষৰ-অথ-পাৰ্থক্য-

২১-২৬-১২০০



श्रीमती/श्री प्रकाश बड़काश

8। रिशत-अई वा मोश-अम/अमना-उकसि/छे-
 किश-अकस-उक-अम/अमना-कसि/अम-अम-
 अम-अम-अम-अम-अम-अम-अम-अम-
 अम/अम-अम/अम-अम-अम-अम-अम-अम-अम-अम-

23-2016-2020

श्रीमती/श्री प्रकाश बड़काश



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Handwritten text in Odia script, likely a legal notice or affidavit. It includes details such as 'ଭାରତୀୟ ସାମ୍ରାଜ୍ୟ' (Republic of India), 'ପଞ୍ଜାବ' (Punjab), 'ଲୁଡ଼ିଆ' (Ludhiana), and 'ପଞ୍ଜାବ' (Punjab). It also mentions '228 ନଂ' and '2009.01.01'.



Handwritten signature and date: 26/11/2020



श्री १०९/१११
 श्री १०९/१११

१। तुष्टिदा— मू—: डुकुर्त—मार्केकीमा— । न—: वानमम—मार्केकीमा
 उ—: मुकुल—रात्रबिका— । ह—: बल्लाबान—
 मार्केकीमा— ।
 पर— तुष्टिदास विजयव—विष्की—मार्के—मू—,

२— 2015-2020

श्री १०९/१११



भारतीय न्यायिक प्रणाली
 के अंतर्गत



न टिकः उग्रभाटख-उग्रभाटीख-मम मय-रिखा" नाम राज.
 उग्र- ।

आज्ञा

२१ अक्टूबर २०२०
 मिता- ५ अक्टूबर २०२०
 आः प्रमोद
 वि. वसुदेव (डा)
 २१ अक्टूबर २०२०
 श्री (प्रमोद) प्रमोद
 अंक नं० १२०

श्री (प्रमोद) प्रमोद अंक नं० १२०
 २३
 २३-२०१८/२०२०
 न. निभाकृत Page 118



Memo No MRK 19 | 2008 | Pt-I | 15

Date - 30/7/2010
OJAA 175093

১৯৯৭ চনৰ ১৩ নং আইনৰ অধীন
১৯৯৯ চনৰ (১৯৯৪ চনৰ অৱশ্যে সংশোধনী
বহে আইন)ৰ অধীনত কৰ্মচাৰীসকলৰ সন
আইন, ১৯৪৭ চনৰ অধীনত কৰ্ম
স্থাপনা কৰা হৈছে।

[Signature]
অসম চৰকাৰ, বৰগাঁও-২ (৩) ৪১১০
বিভাগ: কৰ্ম

০৮২ ২৫ ৭৫০৮

কৰ্মচাৰীৰ হিতাৰ্থে

৩। বৰাৰৰ — ভবানী এজেচিমেণ্ট — আইটে নিউচেটৰ হি
স্বপ্নাৰিডাৰী — শ্ৰী-দিলীপ — চ্ৰী-মিতা শ্ৰী-দুপাল —
চ্ৰী-মাং-বোলা — শ্ৰী-জোৰাৰী — চ্ৰী-পুৰ — শ্ৰী-মাৰা পানবাৰী
মাৰা — শ্ৰী-জোৰাৰী — পুৰ — চ্ৰী-জোৰাৰী — শ্ৰী-মাৰা
শ্ৰী-জোৰাৰী — শ্ৰী-মাৰা — কৰ্মচাৰী —

৪। নিমিত্ত — শ্ৰী-দিলীপ কুমাৰ মজুমদাৰ — শ্ৰী-
শ্ৰী-মাৰা — মজুমদাৰ — শ্ৰী-জোৰাৰী — শ্ৰী-পুৰ —
শ্ৰী-মাৰা — শ্ৰী-জোৰাৰী — শ্ৰী-পুৰ — শ্ৰী-মাৰা
শ্ৰী-জোৰাৰী — শ্ৰী-পুৰ — শ্ৰী-মাৰা — শ্ৰী-জোৰাৰী —
শ্ৰী-পুৰ — শ্ৰী-মাৰা — শ্ৰী-জোৰাৰী — শ্ৰী-পুৰ —

২৩-২৬/৮/২০১০

Issued to... Address ...

Sl. No. 12.8 .. Rs 707.000 .. or by

Stamp Assistant
Morigaon Treasury
Date 21/8/10

26/8/10

নাম লিপিবদ্ধ করিবেন...
তারিখ ১ - জুলাই...
আসপত্রের নং...
শ্রী সত্যজিৎ...



শ্রী সত্যজিৎ...
তারিখ ২৩/৮/১০

শ্রী সত্যজিৎ...

2806

শ্রী সত্যজিৎ...
শ্রী সত্যজিৎ...

2808

শ্রী সত্যজিৎ...

নাম লিপিবদ্ধ করিবেন...
তারিখ ২/৮/১০...
আসপত্রের নং...
শ্রী সত্যজিৎ...
তারিখ ২/৮/১০



১৪০
 ৫০০০ টকা
 পাঁচ হাজার টকা

২। বসন্ত-ছাটি বিক্ষী-চাম-কমণ্ডলা-অত পদ্ম-মিমাং-কাষ্ঠ-
 ক্রান্ত-মিত্তিতুক-শ্রোষ-উজ্জ-যিগ্গম-আয়শ্যক-
 শ্রোয়াত-উক্ত-বসাবসব পক্ষা-নগদ-৬,৬০,৩০০-০০
 (১৩ নি লাম-পক্ষিম-খিল-হাজাৰ) হাজাৰ-উকালৈ শ্রোষ-
 লৈ-শ্রোষ-নিজ নাম্বৰ-পাড়াৰ-নিজ-ইকম্ব-দামলৰ-
 ইতিপূৰ্বে-আমৰ-ওষেত-কোলা-বকম্ব-দাম-
 অং-মিমাং-নমজা-নিম্ব-তমদিম-ও-চৌহদ-বৰ্ণিত-
 ২২ বিখা-ম্যাদী-মাটি-উক্ত-উজ্জ-চাম-বিক্ষী-৭৫-
 আঞ্জিমৈই-বিক্ষীও-ছাটিৰ-দামল-ম্ব-বসাবসবক-
 চমজি দিলা-।

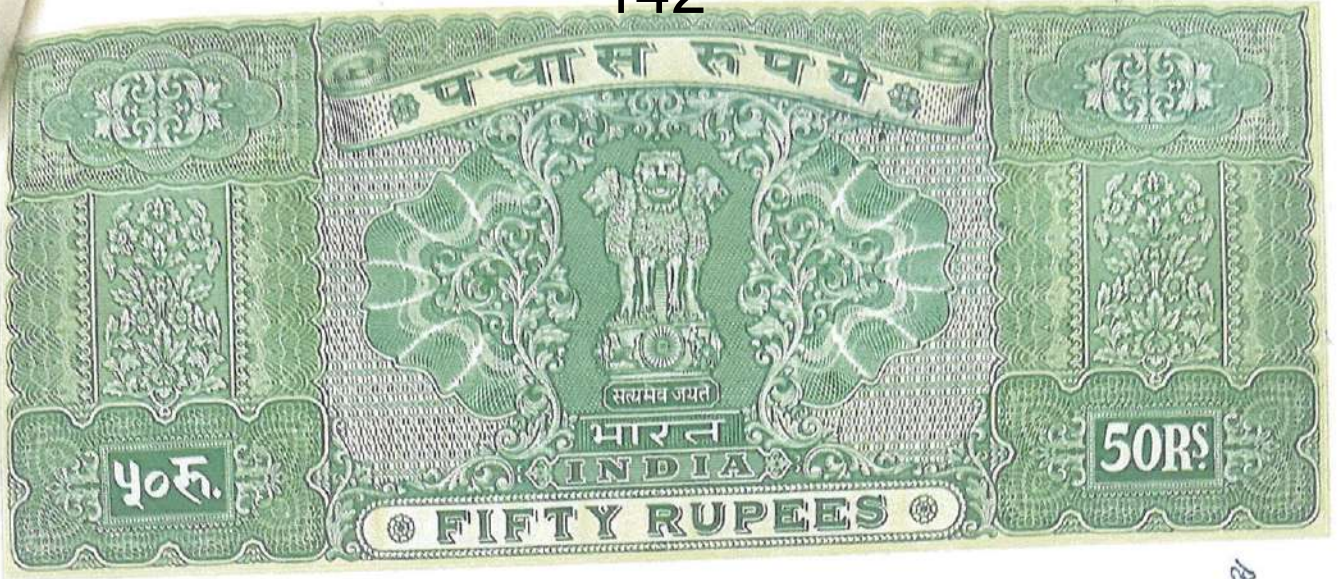
২৩-২০১৮-২০২০



श्रीमती/श्री सुभाष कर्जुणकर

७। आज्ञिष ढषा-उक्त विस्ति-माटि-मोष सङ्गुला मुद्र-
 स्वामिपु-वहितु-वशावषष-उपवत-वर्तिम-।
 वशावष-मोष-सुद्र-सुद्रवान-हे-मोष आम्नात-
 वा-अनाम्नात-विस्ति-माटि-निजि नामत नामजाषि-
 कषाई-ले-उक्ताविमान-काङ्क-लेग-दमन-जेषि-
 दान विस्ति-अन-प्रजष-उक्तव-अनदिस ढषाकी उव-
 ढषाषि-। इमात-अई-वा-मोष-अनलोला-
 उक्ताविदे-विषा-प्रजषष उक्त-अनति जेषि-
 उइ-अन-माटि-विस्ति-अतष-वले-अई-नतः-
 सङ्गुला-अई-उ-अम्नात-उव-।

23-2011-2020



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81



এতদর্মে স্মৃষ্টি মৰীচি সৃষ্টিস্থান সৃষ্টিস্থান - মই নগদ
- টো - চম্বি লি - এহু - চাম্ - মাটী - বিদী - মত নিমাই
পাহাৰী - শুনি - বুজি - চই - জিৰ - বৰাবৰক হানিল -
অসহান - জিৰ দিলা -



উপস্থিত - মৰিগাওঁ জিলায় - মাৰু - মানী - শু - মৰিগাওঁ -
- জৰাজিৰি - অমিৰ - অমৰত - মাৰু - মাজাৰ -
- চেংমাৰীগাওঁ কিচামত - ২০ নং (উপস্থিত) মাদী -
পাহাৰ - ২২৪ নং (এম চৰিমা) - দাগৰ ২৪৭.২ জাৰ -
(২০ বিদ্যা -) এযায় বিদী - মাটী - জাৰ -



23-2011-2020



श्रीमती/शुभाष कर्जुनाकर

७। चिह्न — पू — : ब्रह्मचर्य मंडलीया । न — : आश्रम मंडलीया
 ८ — : भूतल मंडलीया । द — : वल्लुवाभ -
 मंडलीया ।
 पर चिह्न - विद्यार - विद्या - मंडलीया ।
 एक - : २५ पाठ - ४५ भाषी ७५ मक "सुखान" का
 ७५ - २५ ।

२। श्रीमती/शुभाष कर्जुनाकर
 १०५५ - ७ शशिबाबु कर्जुनाकर
 ३५३ देवनागरी
 ४५ - ४५५५५
 ५०५५ - ५०५५५ (५५)

श्रीमती/शुभाष कर्जुनाकर

३३

२। श्रीमती/शुभाष कर्जुनाकर
 शशि कर्जुनाकर 126

२५-२०१५-२०२०



**Pollution Control Board:: Assam
Regional Office; Nagaon**

(Department of Environment & Forests :: Government of Assam)
Milanpur, Saibaba Mandir Path, Nagaon, 782001

No.PCBA/RO/NGN/T-1502/2024-25/66

Dated Nagaon, the 22nd October 2024

To,

The Nodal Officer (Legal),
Legal Section, Pollution Control Board, Assam
Head Office, Bamunimaidam, Ghy -21



Sub: WP(C) 1942 of 2024 (Sri Bharat Saikia Vs The State of Assam & 11 Ors)

Ref: i. Hon'ble High Court Order dated: 27.09.2024.
ii. Your email dated: 18/10/2024.


Sir,

With reference to the above, I have the honour to submit herewith the fresh inspection report in connection to the Hon'ble High Court order dated: 27.09.2024 passed in the WP (C) 1942 of 2024 (Sri Bharat Saikia Vs The State of Assam & 11 Ors), which is related to M/S Bhawani Bricks (BBA Bricks), Vill: Sativati, PO: Mayong, Dist: Morigaon, Assam.

This is for favour of your kind information & necessary action from your end, pls.

Encl: As Stated

Yours faithfully,


22.10.2024

(Pralay. Das)
Exe. Env Scientist
Regional Officer
Regional Office, Nagaon
Pollution Control Board, Assam



INSPECTION REPORT

In pursuance of the order of the Hon'ble Guwahati High Court in connection with WPC 1942/2024 (Sri Bharat Saikia and 9 Ors Vs the state of Assam and 11Ors) and also as per direction of Board Head Office, PCBA, the undersigned has been inspected M/s Bhawani Bricks (BBA Bricks) on 18th Oct/2024 The Details are as follows.

1. Name of the Industry :- M/s Bhawani Bricks (BBA Bricks)
Vill- Chengmari Kisam, Mayong,
Dist- Morigaon, Assam.
2. Contact person :- Mr Dilip Chetri, Proprietor
3. Raw materials:- Clay, River sand, Water.
4. Product : Clay Bricks, 500000 Nos bricks per round as per CTO.
5. Capital Investment:- Rs. 20.0 lakhs as per previous CTO application.
6. Location of the unit:- The unit is located at Vill- Chengmari Kisam, Mayong
Dist- Morigaon, Assam.
The location of the unit is as follows.
Latitude – 26.2568
Longitude – 92.03941
7. Effluent Discharge:- Approx. 3000 lits/day domestic effluent generates in the unit as informed by the proprietor.
8. Manufacturing Process:- The manufacturing process of brick field involves following steps – cutting of land – molding –fermenting – air drying –burning in the Kiln – final product for sale.
9. Pollution aspects:- Emission due to burning of coal is the main sources of pollution of brick industry. 10.0 MT to 12.0 MT (Approx) coal are required to make 100000 nos clay bricks. The applicant installed a fixed chimney and gravity settling chamber. Height of stack is 27 mts from the G.L.
10. Observation:- The unit is located at Chengmari Kisam, Mayong in the District of Morigaon, Assam. During the time of inspection, it has come to notice that conversion of this brick kiln from BTK to Zigzag is going on. No human habitation, Schools, Hospital, Worship places has been seen nearby the unit. The unit is located in a low-lying area. During the time of inspection, No any agricultural activity has been seen nearby the unit. As per local villagers, summer paddy crops like Bodo Paddy crops are harvested before the monsoon season starts. As the bricks manufacturing unit in Assam, is a small scale, seasonal industry and the unit is located in a low lying area, hence, during monsoon season, no industrial activities will be observed. Distance from the Mayang Reserved Forest and Pobitora Wild Life sanctuary from the brick kiln could not be measured due to lack of demarcation of

Cont/2

m/Dev
22/10/24



boundaries from the forest Deptt. However, distance of the forest reserved was measured on 19/12/2013, by the joint verification team constituted by the Deputy Commissioner, Morigaon. As per report, distance of BBA Brick Kiln from the Burha Mayong is 1212 mts and 2130 Mts from Pobitora Wild Life Sanctuary.

As informed by the proprietor, total area of the brick kiln is 21.0B-2.0K -10.0L (28,777.51 Sq mts) vide Dag no-124 and Patta no-19. Concerned Revenue department re-classified this land as Industrial land on 10/04/2013 vide Letter no-MRK 47/2012/87 as mentioned in Jamabandi Copy.

M/s Bhawani Bricks (BBA Bricks) owned by Dilip Chetri established in the year 2011. Deputy Commissioner of Morigaon issued NOC to the unit vide order no-MRK.21/2011/13, Dt-02/09/2011. PCBA, Head Office granted CTE to the unit vide order no-WB/RONG/T-II/11-12/27, DT-20/10/11 and CTO granted to the unit for a period up to 30th June/2024 vide CTO order no- WB/BONG/T-II/11-12/579, Dt-21st March/2024. CTO for the year 2024-25 is in process. It is learned from the local villagers that M/S ABB brick which was owned by Mr Dilip Mazumder had been operating at the same site from the year 2004-05 to 2008-09 and Mr Dilip Mazumder sold this property to Mr Dilip Chetri vide Memo no-MRK 19/2008/Pt-1/15, dted-30th July/2010 as mentioned in registered deed of sale.

11. Remarks: After conversion of brick kiln from BTK to Zigzag firing method, 20% to 30% pollution load will be decreased.

m/Baruah
22/10/2024

(Mridul Baruah) AEE

Regional Office, Nagaon, PCBA.



ABNS SCIENTIFIC SERVICES

এবিএনএচ চাইন্টিফিক চাৰ্ভিচেচ
এবীএনএস সাইন্টিফিক সৰ্বীসেজ

H-152, Keteki Path, near Radisson Blu, NH 27, Guwahati 781033, Assam

কেতেকী পথ, ৰেডিসন ব্লু কে পাৰ, এন এছ ২৭, গুৱাহাটী ৭৮১০৩৩, অসম

Email: info@abnsscscientific.com, abnsscscientific@gmail.com

Phone: 98640 68513, 98640 89951

TEST REPORT: STACK EMISSION MONITORING:

Report No: ABNS/BRICK/032924/08	Date: 29/03/2024
Name & Address of Customer: M/S BHAWANI BRICKS Prop: Mr. Dilip Chetri Vill: Chengmari Kisam; Mayong Dist: Morigaon, Assam-782411	<i>Ref.: ABNS/ Brick/Mg/2023-24/SEAR308</i> Date of Sampling: 25/03/2024 Analysis Start Date: 25/03/2024 Analysis End Date: 28/03/2024
Stack Attached to	Brick Kiln
Stack Height	90 (Feet)
Kiln Category	Medium
Protocol	IS. 11255
Sample Collected by:	ABNS Scientific Services

TEST RESULTS

S/N	PARAMETERS	RESULTS	Reference Method
1	Temperature of Flue Gas ($^{\circ}\text{C}$)	92	IS 11255(part -3)1985
2	Average Flue Gas Velocity (m/sec)	5.96	IS 11255(part -3)1985
3	Total Particulate Matter (mg/Nm^3)	248.0	IS 11255(part -I)1985
4	Sulphur Dioxide (mg/Nm^3)	64.0	IS 1255 (Part II)
5	Nitrogen Oxides (mg/Nm^3)	38.4	IS 1255 (Part VII); 2005
Limits:			
	Kiln Category	Production Capacity (Prsrb. Std.)	PM Limits (mg/Nm^3)
	<i>Small</i>	<15000	1000
	<i>Medium</i>	15000-30000	750
	<i>Large</i>	>30000	750

Note : The Parameters are within permissible limit. All the physical data of the brick kiln are provided by customer.

Report reviewed By: Dr. Mayur Jyoti Mahanta (QM)



[Signature]
29/03/2024

Authorized Signatory
ABNS Scientific Services



GOVERNMENT OF ASSAM
OFFICE OF THE DIVISIONAL FOREST OFFICER
GUWAHATI WILDLIFE DIVISION::BASISTHA, GUWAHATI-29

Email ID- dfo.guwahatiwl@gmail.com

No. B/GWL/ESZ/Pobitora WLS/2024/2397

Dated the 9th September/2024

To,

The District Commissioner,
Morigaon District, Morigaon.

Sub: Report regarding Activities inside the Eco-sensitive Zone of Pobitora Wildlife Sanctuary.

Ref: RFO, Pobitora Wildlife Range's letter No. PWL/20/PWLS/2024/633, dtd. 06-09-2024.

Sir,

With reference to the above subject, I would like to enclose herewith a copy of the list regarding Activities going on within one (1) km. from the boundary of Pobitora Wildlife Sanctuary submitted by the Range Forest Officer, Pobitora Wildlife Range vide letter quoted under reference. Since the Eco-sensitive Zone of Pobitora Wildlife Sanctuary has not been notified, hence, as per the directives dated 11-12-2018 of the Hon'ble Supreme Court in the WP(C) No. 202/1995 T.N. Godavarman Thirumulpad -Vs- the UoI & Ors, the Eco-sensitive Zone around Pobitora Wildlife Sanctuary stands at ten (10) km. from the boundary of Pobitora Wildlife Sanctuary. No mining activities inside the Eco-sensitive Zone are to be permitted and any other activity should be regulated as per the Guidelines for declaration of Eco-sensitive Zone (2011 guidelines) by MoEF & CC.

The undersigned could collect data of activities going on within 1 km from the boundary. Hence, I request you to kindly take necessary action in this regard.

This is for your kind information and necessary action.

Encl: As stated above.

Yours faithfully,



Divisional Forest Officer,
Guwahati Wildlife Division,
Basistha, Guwahati-29.

No. A/GWL/ESZ/Pobitora WLS/2024/1726

Dated the 9th September/2024

Copy to-

The Principal Chief Conservator of Forests, Wildlife & Chief Wildlife Warden, Assam, Aranya Bhawan, Panjabari, Guwahati-37, for his kind information and necessary action.



Divisional Forest Officer,
Guwahati Wildlife Division,
Basistha, Guwahati-29.

Bannu
09/09/24

GOVT. OF ASSAM
OFFICE OF THE RANGE FOREST OFFICER::POBITORA WILDLIFE SANCTUARY
MAYONG::MORIGAON

Email: rfo.pobitorawl@gmail.com

No.PWL/20/PWLS/2024/633

Date: 06/09/2024

To

The Divisional Forest Officer
Guwahati Wildlife Division
Basistha, Guwahati-29

Sub: Submission of the preliminary list of the activities regulated or prohibited in the default 1km eco sensitive zone of Pobitora Wildlife Sanctuary.

Ref: Your office letter no- B/GWL/ESZ/Pobitora WLS/2024/2344 dtd 02/09/2024.

Madam

With reference to the subject cited above, I have the honour to submit herewith the list of major construction activities (ongoing and already completed) within 1km radius of the sanctuary boundary. The undersigned has recorded the said activities as per the existing kmz file in the office.

This is for favour of your information and necessary action.

Yours faithfully

Encl: As stated above.

(Nayan Jyoti Das, AFS)
Range Forest Officer
Pobitora Wildlife Sanctuary
Mayong, Morigaon.

List of Activities in 1 km radius from the Boundary of Pobitora Wildlife Sanctuary.

SL No	Name of Development work	Place	GPS Coordinate (degree decimal)	Status of work	Category	Remarks
1	Unknown-1 Owner- to be verified from circle office, Mayong	Pobitora	N-26.244592 E-92.048773	Under construction hotel/ Resort	Regulated	
2	Arya Eco Resort	Pobitora	N-26.245341 E-92.048327	Running resort	Regulated	
3	Pankhiraj Resort	Pobitora	N-26.245612 E-92.04813	Running resort	Regulated	
4	Prakriti Resort	Pobitora	N-26.246315 E-92.047572	Running resort	Regulated	
5	Jogendra Farm	Pobitora	N-26.247586 E-92.046624	Under construction Farm	Regulated	
6	Maibong Eco Resort	Pobitora	N-26.248038 E-92.045787	Running Resort	Regulated	
7	Humming Bird Dhaba cum Resort	Pobitora Mayong	N-26.246213 E-92.043638	Running Dhaba	Regulated	
8	Prasanti Tourist lodge and Restaurant	Pobitora	N-26.243889 E-92.041803	Govt. Lodge	Regulated	
9	Pump house of PH Water Supply	PHE Pobitora	N-26.243894 E-92.243092	Govt. Water Supply	Regulated	
10	Zizina Resort	Pobitora	N-26.243941 E-92.04419	Running resort	Regulated	
11	Rikon Resort	Pobitora	N-26.243675 E-92.044853	Running Resort	Regulated	
12	Nirvana Green	Pobitora	N-26.24370 E-92.04655	Running Resort	Regulated	
13	Pobitora Guest House	Pobitora	N-26.244225 E-92.047163	Running Guest House	Regulated	
14	Mystique Mayong	Rajamayong	N-26.250826 E-92.043732	Running resort	Regulated	Upgradation of the existing building premise is still going on.
15	Mayong Villa	Buramayong	N-26.24553 E-92.01247	Running Resort	Regulated	


 Range Forest Officer
 Pobitora Wildlife Sanctuary
 Mayong, Morigaon.

16	Bordong Restaurant	Buramayong	N-26.25031 E-92.01260	Running Dhaba	Regulated	
17	Shiv Shakti Dhaba	Buramayong	N-26.25561 E-92.01225	Running Dhaba	Regulated	
18	Bhai Bhai Dhaba	Buramayong	N-26.25550 E-92.011234	Running Dhaba	Regulated	
19	Laying of water pipe under JJM of PHE dept.	Hiloikhunda	N-26.27659 E-92.01619	Govt. water supply	Regulated	
20	Hiloikhunda Namghor	Hiloikhunda	N-26.27675 E-92.01654	Religious temple	Regulated	upgradation of the existing building
21	Unknown Resort (Owner to be verified)	Hiloikhunda	N-26.27876 E-92.01451	Under Construction	Regulated	
22	Dolphin Eco Camp	Hiloikhunda	N-26.27874 E-92.01423	Running Dhaba	Regulated	
23	Hill Mayna Bamboo Resort	Chanaka	N-26.27490 E-92.00274	Running Resort	Regulated	
24	Resort Beach Fire	Chanaka	N-26.27372 E-92.00152	Running Resort	Regulated	
25	Chanaka Eco Camp	Chanaka	N-26.27351 E-92.00141	Running Resort	Regulated	
26	Jhoubon Resort	Chanaka	N-26.27276 E-92.00130	Running Resort	Regulated	
27	Kerketu Resort	Chanaka	N-26.27243 E-92.00078	Running Resort	Regulated	
28	Chanaka Chapori Resort	Chanaka	N-26.27234 E-91.99999	Running Resort	Regulated	
29	Chanaka JJM	Chanaka	N-26.26782 E-91.99653	JJM Govt. water supply	Regulated	
30	Revering Camp	Chanaka	N-26.26993 E-91.99622	Running Dhaba	Regulated	
31	Kitchen Dhaba	Buramayong	N-26.23687 E-91.99648	Running Dhaba	Regulated	

32	Xorapat Eco Resort	Hiloikhunda	N-26.26959 E-92.04152	Running Resort	Regulated	Away from the RF boundary but inside the Murkata khasland boundary
33	Novotel Hotel Guwahati Down town Branch (Assam Tourism) earlier known as Log Hut complex	Hatimuria	N-26.27362 E-92.03992	Running Resort	Regulated	
34	Kusioni JJM	Kusioni	N-26.241877 E-92.077383	Water Supply	Regulated	
35	Road Construction of Bordia Sildubi	Sildubi	N-26.255822 E-92.05932	Upgradation of existing road	Regulated	
36	Solar Water pump Govt. Scheme by IRRIGATION Dept.	Sildubi	N-26.250186 E-92.065921	Govt. Scheme of water pump	Regulated	
37	Royal Sanvi Resort	Sildubi	N-26.244878 E-92.063991	Running Resort	Regulated	
38	Water Supply near Kukuari JJM	Kukari	N-26.225131 E-92.089658	Govt. Water Supply	Regulated	
39	Pobitora Rice Mill	Kholabhuyan	N-26.235443 E-92.088583	Running Rice Mill	Regulated	
40	Gungun The river Side Kitchen	Dhekiabari	N-26.25961 E-91.97041	Running Resort	Regulated	
41	Royal Mandala Resort	Gobhali	N-26.24953 E-91.97476	Running Resort	Regulated	
42	Dhekiabari JJM	Gobhali	N-26.24366 E-91.98168	Water supply Govt.	Regulated	
43	BBD (Brick Industry)	Gobhali	N-26.23839 E-91.98630	Brick Industry	Regulated	
44	Labonya Brick Industry	Thengbhonga	N-26.19890 E-92.06106	Brick Industry	Regulated	
45	Community Hall	Kamarpur	N-26.22261 E-92.03464	Community Hall	Regulated	


 Range Forest Officer
 Pobitora Wildlife Sanctuary
 Mayong, Morigaon.

46	Thengbhonga JJM	Thengbhonga	N-26.20647 E-92.05496	Govt. water supply	Regulated	
47	Ayushman Arogya Mandir	Thengbhonga	N-26.20635 E-92.05516	Health center	Regulated	
48	Boha Sand Mining permit area (Sand mahal)	Thengbhonga	N-26.21488 E-92.04799	Sand Mahal	Regulated by Forest Department	
49	Unknown-2 Owner- to be verified from circle office, Mayong	Pobitora	N-26.24399 E-92.04244	Under construction	Regulated	
50	JJM Hiloikhunda 2	Hiloikhunda	N-26.27416 E-92.01534	Govt. water supply	Regulated	
51	JJM Ouguri	Ouguri	N-26.2680 E-90.01550	Govt. water supply	Regulated	
52	Chanaka Primary Health Centre	Chanaka	N-26.26937 E-91.99464	Govt. Hospital	Regulated	
53	Abhiruchi Institute of Physical education	Gobhali	N-26.240503 E-92.010699	Running physical institute	Regulated	
54	Abandoned Brick Industry	Satibheti	N-26.253498 E-92.021255	Brick Industry	Regulated	

Note: As this office has no specific and proper (updated) KMZ file of the sanctuary boundary and hence the ESZ, the distance of the mentioned places may slightly vary.


 Range Forest Officer
 Pobitora Wildlife Sanctuary
 Mayong, Morigaon.

Photographs



Fig 1: visit by committee at M/s Bhabani Brick Industry, (BBA), Village Sativeti, Chengmari Kisam, Dist.: Morigaon, Assam



Fig 2: visit by committee at M/s BBD Brick Industry, Unit-I & Unit-II Mayong, Dhekiabari, Dist.: Kamrup, Assam



Fig 3: M/s Pashpati Nath Bricks (PNB), Dhekiabari, Govali, Dist.: Kamrup, Assam

REPORTABLE**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION****I.A. NOS. 131377, 147102, 195467, 195468,
205092 OF 2022,****I.A. NOS. 162283 AND 162284 OF 2022****IN****I.A. D. NO. 125746 OF 2022****WITH****I.A. NOS. 118604, 118606, 119400, 119401, 119404,
137132, 137138, 137140 AND 137143 OF 2022****I.A. NOS. 5764, 6804 AND 10911 OF 2023****IN THE MATTER OF:****WRIT PETITION (CIVIL) NO. 202 OF 1995****IN RE: T.N. GODAVARMAN THIRUMULPAD****...PETITIONER(S)****VERSUS****UNION OF INDIA AND OTHERS****...RESPONDENT(S)****J U D G M E N T****B.R. GAVAI, J.****I.A. NO. 131377 OF 2022:**

1. The present I.A. is filed by the Union of India praying for modification/clarification of the order passed by this Court

dated 3rd June 2022¹ in I.A. No. 1000 of 2003 in WP(C) No. 202 of 1995.

2. The applicant specifically seeks modification of the directions contained in paragraphs 56.1 and 56.5 of the order dated 3rd June 2022 (supra). The said paragraphs are reproduced hereinbelow:

“56.1. Each protected forest, that is, national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9-2-2011 shall be strictly adhered to. For Jamua Ramgarh Wildlife Sanctuary, it shall be 500 m so far as subsisting activities are concerned.

.....

56.5. In the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9-2-2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. Such permission shall be given once the Principal Chief Conservator of Forests is satisfied that the activities concerned do not come within the prohibited list and were

¹ (2022) 10 SCC 544

continuing prior to passing of this order in a legitimate manner. No new permanent structure shall be permitted to come up for whatsoever purpose within the ESZ.”

3. The clarification/modification of paragraph 56.1 of the order dated 3rd June 2022 (supra) is sought to the extent that the Eco-Sensitive Zones (for short, “ESZs”) which have already been notified (final and draft) by the Ministry of Environment Forests and Climate Change (for short, “MoEF & CC”) or the proposals for which have been received in the Ministry be exempted from the directions therein. The applicant also sought modification to the extent that paragraph 56.1 of the order dated 3rd June 2022 (supra) may not be made applicable where National Parks and Wildlife Sanctuaries are located along inter-State boundaries and/or common boundaries. Modification/clarification of the directions in paragraph 56.5 of the order dated 3rd June 2022 (supra) in its entirety is additionally sought.

4. We have heard Ms. Aishwarya Bhati, learned Additional Solicitor General (for short, “ASG”) appearing on behalf of the applicant, Shri K. Parameshwar, learned *amicus curiae* as

well as Senior Counsel appearing on behalf of various State Governments.

5. It is submitted that the Government of India has already issued Guidelines on 9th February 2011 (hereinafter referred to as the “said Guidelines”) for declaration of ESZs around National Parks and Wildlife Sanctuaries. The said Guidelines were framed after consulting the National Board for Wildlife (hereinafter referred to as “NBWL”), and all the State and Union Territory Governments. The said Guidelines provide a detailed procedure for submitting a proposal for declaration of the areas around National Parks and Wildlife Sanctuaries as ESZs. It is further submitted that the said Guidelines itself contain various activities which have been categorized as prohibited, regulated and permitted.

6. It is further submitted that the direction as contained in paragraph 56.5 of the order dated 3rd June 2022 (supra) is likely to cause great hardship to the citizens residing in the ESZs. It is further submitted that the said directions provide that if any activity is already being undertaken within one kilometre or extended buffer zone (ESZ), and which does not

come within the ambit of prohibited activities as per the said Guidelines, such activities may continue with the permission of the Principal Chief Conservator of Forests (for short, "PCCF") of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. The said Guidelines further provide that such permission shall be given once the PCCF is satisfied that the activities concerned do not come within the prohibited list and were continuing prior to passing of this Court's order dated 3rd June 2022 (supra) in a legitimate manner. It is further submitted that the direction that no new permanent structure shall be permitted to come up for whatsoever purpose within the ESZs would also cause great hardship.

7. It is further submitted that insofar as the direction in paragraph 56.1 of the order dated 3rd June 2022 (supra) is concerned, it mandates that each protected forest, that is, National Park or Wildlife Sanctuary, must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities

proscribed and prescribed in the said Guidelines shall be strictly adhered to. Insofar as Jamua Ramgarh Wildlife Sanctuary is concerned, it is directed that the ESZ shall be 500 meters so far as subsisting activities are concerned.

8. The learned ASG, *amicus curiae* and Senior Counsel appearing on behalf of various States submitted that in respect of various National Parks and Wildlife Sanctuaries, already final notifications had been issued, prescribing the boundaries for the ESZs. In some cases, the draft notifications are pending and in some other cases, the proposals for issuance of draft and final notifications are pending with the Government of India.

9. It is submitted that there cannot be a uniform boundary for all the National Parks and Wildlife Sanctuaries. It is further submitted that there cannot also be a uniform boundary for a particular National Park or Wildlife Sanctuary. At times, it may be longer on one side and shorter on the other side depending on various circumstances.

10. It is submitted that the rights of the citizens who are residing in the Protected Areas are settled under the

provisions of Sections 18 to 25A of the Wild Life (Protection) Act, 1972 (hereinafter referred to as “1972 Act”) whereas there is no settlement of rights of citizens residing in ESZs. The citizens therein continue to reside and are also continuing with their daily avocation like farming etc. It is submitted that various developmental activities like construction of schools, dispensaries, anganwadis, public health centres etc. are required to be undertaken in such areas. Not only that, but if the direction not to make any construction is continued, the persons residing therein would not be in a position to construct or reconstruct houses on their own land. It is submitted that the procedure prescribed for obtaining the permission of the PCCF is very tedious. If such a direction is issued, the PCCF would be left with no other work but to consider the applications for continuation of such activities.

11. It is further submitted that though this Court has observed in paragraph 54 of the order dated 3rd June 2022 (supra) that the said Guidelines are reasonable, it has

nevertheless issued directions which are in conflict with the said Guidelines.

12. It is further contended that the issue in I.A. No. 1000 of 2003 was restricted to prohibition of mining activities in and around Jamua Ramgarh Wildlife Sanctuary and prescribing ESZs for the said Wildlife Sanctuary only. As such, various State Governments did not have an opportunity to address this Court.

13. Having considered the rival submissions, we find it appropriate to refer to various orders passed by this Court on the issue of ESZs/Buffer Zones.

14. The first of such orders was passed by this Court on 16th September 2005². It will be relevant to refer to paragraph 13 of the said order, which reads thus:

“13. We have perused the affidavit dated 14-9-2005 filed by Mr Anurag Bajpai on behalf of MoEF and the statement showing the grant of temporary working permit in the last two years i.e. from 1-1-2003 to 31-12-2004 in the national parks, sanctuaries and forest area. This is despite the order passed by this Court restraining the mining activities in these areas. Learned amicus curiae submits that the inspection of the government record shows a

² (2006) 5 SCC 25

dismal picture and he would shortly file an application for taking appropriate action against the persons concerned. Pending filing of the said application and further orders, we again reiterate that without compliance with the environmental laws, in particular the permission under the Forest (Conservation) Act, 1980, no temporary working permission or temporary permit or any other permission by whatever name called shall be granted for mining activities in the aforesaid areas. ***We further direct that no mining activity would continue under any temporary working permit or permission which may have been granted. It appears from the chart filed with the affidavit of Mr Anurag Bajpai that no temporary working permission is in operation as of today. If it is otherwise, an affidavit to that effect shall be filed within two weeks giving the particulars of such permission.***

[emphasis supplied]

15. It can thus clearly be seen that this Court directed that no mining activity would be permitted to continue under any temporary working permit or permission which may have been granted.

16. It will further be relevant to refer paragraph 15 of the said order, which reads thus:

“15. MoEF is directed to place on record within three weeks its viewpoint on the question of area of buffer zone and other related matters such as should it be universal or place specific.

This should be done after also obtaining the viewpoint of the National Board of Wildlife.”

17. It can thus be seen from the said paragraph that this Court directed MoEF to place on record within three weeks its viewpoint on the question of area of buffer zone and other related matters such as should it be universal or place specific. The Court further directed that this should be done after obtaining the viewpoint of the NBWL.

18. The second of such orders is passed on 4th August 2006³. The said order basically pertains to banning the mining activities in the National Parks, Sanctuaries and forest areas. The Court laid down various pre-conditions wherein temporary working permits could be granted.

19. The next order is passed on 4th December 2006⁴. In the said order, the Court expressed its anguish towards the various State Governments for not responding to the letter issued by MoEF dated 27th May 2005 requiring them to initiate measures for identification of suitable areas and submit detailed proposals at the earliest. It will be relevant

³ (2010) 13 SCC 740

⁴ (2011) 15 SCC 791

to refer to paragraphs 3 and 4 of the said order, which read thus:

3. The order earlier passed on 30-1-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 793] refers to the decision which was taken on 21-1-2002 to notify the areas within 10 km of the boundaries of national parks and sanctuaries as eco-sensitive areas. The Letter dated 27-5-2005 is a departure from the decision of 21-1-2002. For the present, in this case, we are not considering the correctness of this departure. That is being examined in another case separately. Be that as it may, it is evident that the States/Union Territories have not given the importance that is required to be given to most of the laws to protect environment made after Rio Declaration, 1992.

4. The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its Letter dated 27-5-2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21-1-2002, namely, notification of the areas within 10 km of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having

regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril.”

20. It can be seen that this Court refers to its earlier order dated 30th January 2006 wherein a reference is made to the decision dated 21st January 2002 to notify the areas within 10 kilometres of the boundaries of National Parks and Sanctuaries as ESZs. Though the order records that the letter dated 27th May 2005 is a departure from the decision taken on 21st January 2002, the Court observes that, in the said case, the Court was not considering the correctness of the said departure. The Court therefore directed the Ministry to give a final opportunity to all States/Union Territories to respond to its Letter dated 27th May 2005. The said order states that the communication should mention that if the proposals were not sent within a period of four weeks from the receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21st January 2002, i.e., notification of the areas within 10

kilometres of the boundaries of the sanctuaries and National Parks as ESZs.

21. The next order of this Court is dated 21st April 2014 in the case of ***Goa Foundation v. Union of India and Others***⁵.

It will be relevant to refer to the following observations of this Court in the said order:

“49.The result is that the order passed by this Court saying that there will be no mining activity within one kilometre safety zone around national park or wildlife sanctuary has to be enforced and there can be no mining activities within this area of one kilometre from the boundaries of national parks and wildlife sanctuaries in the State of Goa.”

22. The Court has clarified that there shall be no mining activity within one kilometre of the safety zone around National Park or Wildlife Sanctuary and that this has to be enforced. It is also reiterated that there can be no mining activities within this area of one kilometre from the boundaries of National Parks and Wildlife Sanctuaries in the State of Goa.

23. The Court thereafter refers to the earlier order dated 4th December 2006 (supra) in the said case and observed thus:

⁵ (2014) 6 SCC 590

“50.It will be clear from the order dated 4-12-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 791] of this Court that this Court has not passed any orders for implementation of the decision taken on 21-1-2002 to notify areas within 10 km of the boundaries of national parks or wildlife sanctuaries as eco-sensitive areas with a view to conserve the forest, wildlife and environment. By the order dated 4-12-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 791] of this Court, however, the Ministry of Environment and Forests, Government of India, was directed to give a final opportunity to all States/Union Territories to respond to the proposal and also to refer to the Standing Committee of the National Board for Wildlife the cases in which environment clearance has already been granted in respect of activities within the 10 km zone from the boundaries of the wildlife sanctuaries and national parks. There is, therefore, no direction, interim or final, of this Court prohibiting mining activities within 10 km of the boundaries of national parks or wildlife sanctuaries.”

24. It could thus be seen that the Court has specifically observed that this Court had not passed any orders for implementation of the decision taken on 21st January 2002 to notify areas within 10 kilometres of the boundaries of National Parks or Wildlife Sanctuaries as ESZs with a view to conserve the forest, wildlife and environment. The Court therefore clarified that there is no direction, interim or final,

prohibiting mining activities within 10 kilometres of the boundaries of National Parks or Wildlife Sanctuaries.

25. It will be relevant to refer to paragraphs 87.3 and 88.1 of the said order, which read thus:

“**87.3.** Until the order dated 4-8-2006 [*T.N. Godavarman Thirumulpad v. Union of India*, (2010) 13 SCC 740] of this Court is modified by this Court in IA No. 1000 in *T.N. Godavarman Thirumulpad v. Union of India*, there can be no mining activities within one kilometre from the boundaries of national parks and sanctuaries in Goa.

88.1. MoEF will issue the notification of eco-sensitive zones around the national park and wildlife sanctuaries of Goa after following the procedure discussed in this judgment within a period of six months from today.”

26. It can thus be seen that this Court has held that until the order dated 4th August 2006 (*supra*) is modified by this Court in IA No. 1000 of 2003 in the case of ***T.N. Godavarman Thirumulpad v. Union of India***, there can be no mining activities within one kilometre from the boundaries of National Parks and Sanctuaries in Goa. The Court further directed MoEF to issue the notification of ESZs around the National Park and Wildlife Sanctuaries of Goa after following the procedure discussed in the said judgment.

The same was directed to be done within a period of six months from the date of the said order.

27. The next relevant order would be dated 11th December 2018. It will be relevant to refer to the following part of the said order:

“The learned ASG has informed us that there are 104 National Parks and 558 Wildlife Sanctuaries making a total of 662 National Parks and Wildlife Sanctuaries in the country.

The proposals for declaring areas around these National Parks and Wildlife Sanctuaries as Eco Sensitive Zone have been received from State Governments / UT Administrations for 641 National Parks and Wildlife Sanctuaries. No proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries.

The proposals have been accepted and Notification has been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26.11.2018 and draft Notification has been prepared in respect of 206 National Parks and Wildlife Sanctuaries.

The declaration with regard to Eco Sensitive Zone is under process with the Ministry of Environment, Forests and Climate Change (MoEF) as well as with the State Governments in respect of 4 146 National Parks and Wildlife Sanctuaries.

We expect the Ministry of Environment, Forests and Climate Change to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest.

The proposals for 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MOEF are as follows:-

.....

It is submitted by the learned Amicus that this issue has been pending since sometime in December, 2006. 12 years have gone-by but no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries mentioned above.

Under the circumstances, we direct that an area of 10 Kms around these 21 National Parks and Wildlife Sanctuaries be declared as Eco Sensitive Zone by the MoEF. The declaration be made by the MoEF at the earliest.

Liberty is granted to the State Governments to move an application for modification of this order along with proposal only two weeks after submission of the proposals to the MoEF.”

28. It can be seen that this Court has recorded the submissions of the learned ASG that there were 104 National Parks and 558 Wildlife Sanctuaries making a total of 662 National Parks and Wildlife Sanctuaries in the country. It was further recorded that the proposals for declaring areas around these National Parks and Wildlife Sanctuaries as ESZs had been received from the State Governments/Union

Territories. It can further be seen that no proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries. It further recorded that the proposals had been accepted and notification had been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26th November 2018 and draft notification had been prepared in respect of 206 National Parks and Wildlife Sanctuaries. The Court therefore expected the MoEF & CC to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest. The Court then recorded 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MoEF & CC alongside its anguish that though 12 years had been passed, no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries named in the said order. Therefore, the Court directed that an area of 10 kilometres around these 21 National Parks and Wildlife Sanctuaries be declared as ESZs by the MoEF & CC. Liberty was granted to the State Governments to move an application for modification of the said order. However, it

further directed that the application should be along with the proposal for declaration of ESZs.

29. It is to be noted that the learned Judges of this Court, in the case of **Goa Foundation**⁶, had directed that the MoEF & CC shall follow the procedure and issue notification of ESZs under Rule 5 of the Environment (Protection) Rules, 1986 (hereinafter referred to as “1986 Rules”). The relevant provisions of the 1986 Rules are reproduced hereinbelow:

“5. Prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas.—(1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas:

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

⁶ (2014) 6 SCC 590

(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.

(3) (a) Whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions on the location of an industry or the carrying on of processes and operations in an area, it may, by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time, give notice of its intention to do so.

(b) Every notification under clause (a) shall give a brief description of the area, the industries, operations, processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the location of the industries and carrying on of processes or operations in that area.

(c) Any person interested in filing an objection against the imposition of prohibition or restrictions on carrying on of processes or operations as notified under clause (a) may do so in writing to the Central Government within sixty days from the date of publication in the notification in the Official Gazette.

(d) The Central Government shall within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may [within [seven hundred and twenty-five days [, and in respect of the States of Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland,

Tripura, Sikkim and Jammu and Kashmir in exceptional circumstance and for sufficient reasons within a further period of one hundred and eighty days,]) from such date of publication] impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area:

[Provided that on account of COVID-19 pandemic, for the purpose of this clause, the period of validity of the notification expiring in the financial year 2020-2021 and 2021-2022 shall be extended up to [30th June, 2022] or six months from the end of the month when the relevant notification would have expired without any extension, whichever is later.]

[(4) Notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3).]

30. It is to be noted that Rule 5 of the 1986 Rules prescribes a detailed procedure for issuing notification prohibiting or restricting various activities in the specified areas. The said power flows from Sections 3(v) of the Environment (Protection) Act, 1986 (hereinafter referred to as “1986 Act”).

31. A perusal of clause (viii) of sub-rule (1) of Rule 5 of the 1986 Rules would reveal that one of the factors that has to be taken into consideration for declaring ESZ is the proximity to a sanctuary, National Park, game reserve or closed area notified, as such under the 1972 Act. Sub-rule 3(a) of Rule 5 of the 1986 Rules requires that whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions, it is required to give notice of its intention to do so by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time. As per sub-rule 3(b) of Rule 5, every such notification is required to give a brief description of the area, the industries, operations processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the location of the industries on carrying out of the processes or operations in that area. Accordingly, as per sub-rule 3(c) of Rule 5, any person interested in filing an objection is entitled to file an objection to the Central Government within sixty days from the date of publication in the notification in the Official

Gazette. The Central Government thereafter within the prescribed period provided under clause (d) of sub-rule (3) of Rule 5 of the 1986 Rules is required to issue a notification in the Official Gazette imposing such prohibition or restrictions in an area. This is required to be done only after considering all the objections received under clause (c) of sub-rule (3) of Rule 5 of the 1986 Rules. It can thus be seen that a detailed procedure is prescribed under the 1986 Rules for notifying ESZs.

32. It is to be noted that MoEF & CC has issued the said Guidelines for declaration of ESZs around the National Parks and Wildlife Sanctuaries.

33. The said Guidelines refer to a meeting of the Indian Board for Wildlife held on 21st January 2002, in which “Wildlife Conservation Strategy-2002” was adopted. Point No. 9 of the said Strategy envisaged that lands falling within 10 kilometres of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile zones under Section 3(v) of the 1972 Act and clause (viii) of sub-rule (1) of Rule 5 of the 1986 Rules. It further states that when the

views were obtained from all the State Governments, some of the State Governments had raised concern over applicability of 10 kilometres range from the Protected Area boundary and informed that most of the human habitation and other areas including important cities in these States would come under the purview of ESZs and will adversely affect the development. The said Guidelines also refer to the National Wildlife Action Plan (2002-2016). The NBWL, in its meeting held on 17th March 2005, decided that the delineation of ESZs would have to be site specific and relate to regulation rather than prohibition of specific activities. The said decision was communicated to all the State Governments for compliance vide letter dated 27th May 2005.

34. The said Guidelines thereafter refer to the directions of this Court dated 4th December 2006. It also refers to the statutory provisions as contained in Section 5C (1) of the 1972 Act, Section 3 of the 1986 Act and Rule 5 of the 1986 Rules. The said Guidelines state that the purpose of declaring ESZs around National Parks and Sanctuaries is to create some kind of Shock Absorber for the Protected Areas.

They would also act as a transition zone from areas of high protection to areas involving lesser protection. It also reiterates the decision of the NBWL that the activities in the ESZs would be of a regulatory nature rather than prohibitive nature unless and otherwise so required. Paragraph 4 of the said Guidelines notes that many of the existing Protected Areas have already undergone tremendous development in close vicinity to their boundaries. It refers to the Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc. and notes that the Protected Areas are lying in the urban set up. It therefore observes that defining the extent of ESZs around Protected Areas will have to be kept flexible and Protected Area specific. It notes that the width of ESZs and type of regulations will differ from one Protected Area to another Protected Area. It however notes that, as a general principle, the width of the ESZs could go up to 10 kilometres around a Protected Area as provided in the Wildlife Conservation Strategy-2002. It further notes that in case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10 kilometres width, these should be

included in the ESZs. It further notes that even in context of a particular Protected Area, the distribution of an area of the ESZ and the extent of regulation may not be uniform all around and it could be of variable width and extent. The said Guidelines notes that though the directions were issued by this Court to all the States/Union Territories, except a few States, several other States/Union Territories have not come forward with the proposals for declaration of ESZs. It was observed that this could be perhaps for want of guidelines in this regard. It further notes that this Court in its judgment and order dated 3rd December 2010 in a case relating to construction of park at Noida near Okhla Bird Sanctuary, observed that the ESZs around the Protected Areas had not been notified as the Government of India had not issued any guidelines in this regard.

35. It thereafter refers to the Committee under the Chairmanship of Shri Pronab Sen for identifying parameters for designating Ecologically Sensitive Areas in India.

36. The said Guidelines thereafter state in paragraph 6 that the basic aim of notifying ESZs is to regulate certain

activities around National Park and Wildlife Sanctuary so as to minimize the negative impact of such activities on the fragile ecosystem encompassing the Protected Area. It states that the first step towards it is to prepare an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area as well as important Corridors. It states that the inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 kilometres of the range. It further notes that a Committee comprising of the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area, could be formed to suggest the following:

- (i) Extent of eco-sensitive zones for the Protected Area being considered.
- (ii) The requirement of such a zone to act as a shock absorber
- (iii) To suggest the best methods for management of the eco-sensitive zones, so suggested.

- (iv) To suggest broad based thematic activities to be included in the Master Plan for the region.

37. It further notes that based on the above, the Chief Wildlife Warden could group the activities under the following categories:-

- (i) Prohibited
- (ii) Restricted with safeguards.
- (iii) Permissible

38. The said Guidelines thereafter note that once the proposal for ESZs has been finalized, the same should be forwarded to the MoEF & CC for further processing and notification. An indicative list of details that need to be submitted along with the proposals is also appended to the said Guidelines.

39. The said Guidelines further note that where the boundary of a Protected Area abuts the boundary of another State/Union Territory where it does not form part of any Protected Area, it should be the endeavour of both the State/Union Territory Governments to have a mutual

consultation and decide upon the width of the ESZs around the Protected Area in question. The said Guidelines emphasize that the State Government should endeavour to convey a very strong message to the public that ESZs are not meant to hamper their day to day activities, but instead, are meant to protect the precious forests/Protected Areas in their locality from any negative impact, and also to refine the environment around the Protected Areas. It further notes that these guidelines are indicative in nature and the State/Union Territory Governments may use these as basic framework to develop specific guidelines applicable in the context of their National Parks, Wildlife Sanctuaries, important corridors etc. with a view to minimizing and preferably eliminating any negative impact on Protected Areas.

40. A list of the activities which are prohibited, regulated and permitted is contained in Annexure-I of the said Guidelines, which reads thus:

Sl. No.	Activity	Prohibited	Regulated	Permitted	Remarks
1.	Commercial mining	Y			Regulation sill not

					prohibit the digging of earth for construction or repair of houses for manufacture of country tiles or bricks for housing for personal
2.	Felling of trees		Y		With permission from appropriate authority
3.	Setting of saw mills	Y			
4.	Setting of industries causing pollution (Water, Air, Soil., Noise, etc.)	Y			
5.	Establishment of hotels and resorts		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals
6.	Commercial use of firewood	Y			For hotels and other business related establishment

7.	Drastic change of agriculture systems		Y		
8.	Commercial use of natural water resources including ground water harvesting		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
9.	Establishment of major hydroelectric projects	Y			
10.	Erection of electrical cable		Y		Promote underground cabling
11.	Ongoing agriculture and horticulture practices local communities			Y	However, excessive expansion of some of these activities should be regulated as per the master plan
12.	Rain Water harvesting			Y	Should be actively promoted
13.	Fencing of premises of hotels and lodges		Y		
14.	Organic farming			Y	Should be actively promoted

15.	Use of polythene bags by shopkeepers		Y		
16.	Use of renewable energy sources			Y	Should be actively promoted
17.	Widening of roads		Y		This should be done with proper EIA and mitigation measures
18.	Movement of vehicular traffic at night		Y		For commercial purpose
19.	Introduction of exotic species		Y		
20.	Use of production of any hazardous substances	Y			
21.	Undertaking activities related to tourism like over-flying the National Park are by any aircraft, hot-air balloons				
22.	Protection of hill slopes and river banks		Y		As per the master plan

23.	Discharge of effluents and solid waste in natural water bodies or terrestrial are	Y			
24.	Air and vehicular pollution		Y		
25.	Sign board & hoardings		Y		As per the master plan
26.	Adoption of green technology for all activities			Y	Should be actively promoted.

41. It is to be noted that this Court in paragraph 54 of the order dated 3rd June 2022 (supra) has, in fact, held the said Guidelines to be reasonable and also accepted the view of the Standing Committee of the NBWL that uniform guidelines may not be possible in respect of each sanctuary or National Park for maintaining the ESZs. It is also observed that the sanctuaries like Sanjay Gandhi National Park and Guindy National Park in Mumbai shall form special cases. The said paragraph 54 is reproduced hereinunder:

“54. In our opinion, the Guidelines framed on 9-2-2011 appear to be reasonable and we accept the view of the Standing Committee that uniform guidelines may not be possible in respect of each sanctuary or national park for maintaining ESZ. We are of the opinion, however, that a minimum width of 1 km ESZ ought to be maintained in respect of the protected forests, which forms part of the recommendations of CEC in relation to Category B protected forests. This would be the standard formula, subject to changes in special circumstances. We have considered CEC's recommendation that the ESZ should be relatable to the area covered by a protected forest but the Standing Committee's view that the area of a protected forest may not always be a reasonable criteria also merits consideration. It was argued before us that the 1 km wide “no-development-zone” may not be feasible in all cases and specific instances were given for Sanjay Gandhi National Park and Guindy National Park in Mumbai and Chennai metropolis respectively which have urban activities in very close proximity. These sanctuaries shall form special cases.”

42. It is to be noted that an elaborate and exhaustive list has been prepared by MoEF & CC of the activities which shall be prohibited, the activities which shall be regulated and the activities which shall be permitted.

43. In the application, it is stated that after the proposals are received from the State Governments/Union Territory

Administrations, they are scrutinized in consultation with the Wildlife Institute of India, Dehradun, and in case of tiger reserves, with the National Tiger Conservation Authority. They are thereafter published in the Official Gazette of the Central Government in both Hindi and English. They are also placed in the public domain for 60 days for seeking comments of concerned stakeholders. The comments so received are compiled and scrutinized and observation of the concerned State Government/Union Territory Administration is sought on the same. The aforesaid requirements are in tune with the provisions of Rule 5 of 1986 Rules.

44. The application further states that the proposal is thereafter placed before an Expert Committee constituted for ESZ within the MoEF & CC. The said Committee comprises of the following:

- (i) Indian Institute of Remote Sensing/Indian Space Research Organization,
- (ii) Ministry of Jal Shakti,
- (iii) Ministry of Rural Development,

- (iv) Forest Survey of India,
- (v) Town & Country Planning Organization,
Government of India,
- (vi) National Tiger Conservation Authority,
- (vii) Wildlife Institute of India,
- (viii) GB Pant Institute of Himalayan
Environment & Development,
- (ix) Indian Council of Forestry Research and
Education,
- (x) World Wildlife Fund,
- (xi) Zoological Survey of India,
- (xii) Botanical Survey of India,
- (xiii) Salim Ali Centre for Ornithology and
Natural History (SACON).

45. It is further stated in the application that based on the recommendation of the Expert Committee (ESZ), the Ministry finalizes the notification of ESZs and after due legal vetting by the Ministry of Law & Justice, final notifications specifying the ESZs around the Protected Areas are notified. It could thus be seen that an elaborate procedure including

consideration by a Committee of Experts coming from 13 organizations having expertise in wildlife ecology, forest etc. is followed before a final notification prescribing ESZs is notified.

46. In the application filed by the Union of India, various illustrations have been given to point out as to how if the directions issued in paragraph 56.5 of the order dated 3rd June 2022 (supra) are not modified, a severe hardship would be caused to the millions of people. We refer to the same hereunder:

- (i) “The ESZ around Nagarjunasagar Srisailam Tiger Reserve in Andhra Pradesh extends from 0 to 26 kilometres and 100 villages are situated within it (*Zero extent of ESZ is due to Krishna River and interstate boundary with Telangana*);
- (ii) The ESZ around Valmiki Wildlife Sanctuary, Valmiki National Park and Valmiki Tiger Reserve in Bihar extends from 0 to 9 kilometres and 323 villages are situated within it (*zero extent of ESZ is towards Western side sharing inter-state boundaries with Uttar Pradesh and*

towards Northern side sharing international boundary with Nepal);

- (iii) The ESZ around Betla National Park, Palamau Wildlife Sanctuary, and Mahuadanr Wolf Sanctuary in Jharkhand extends from 0 to 9 kilometres and 382 villages are situated within it (*Zero extent of ESZ is due to Inter-State boundary*);
- (iv) The ESZ around Cauvery Wildlife Sanctuary in Karnataka extends from 1 to 14.5 kilometres and 107 villages are situated within it;
- (v) The ESZ around Kanha National Park and Phen Wildlife Sanctuary in Madhya Pradesh extends from 0 to 30 kilometres and 168 villages are situated within it (*Zero extent of Eco-sensitive Zone is towards the eastern side having interstate boundary with Chhattisgarh*);
- (vi) The ESZ around Tadoba-Andhari Tiger Reserve in Maharashtra extends from 3 to 6 kilometres and 150 villages are situated within it;
- (vii) The ESZ around Jaisamand Wildlife Sanctuary in Rajasthan extends from 1.6

to 8.9 kilometres and 83 villages are situated in it;

- (viii) Even a small ESZ such as the one around Keoladeo National Park in Rajasthan which extends from 0.5 to 1.5 kilometres has 22 villages situated in it.”

47. It would thus reveal that in the ESZ around Nagarjunasagar Srisailam Tiger Reserve in Andhra Pradesh, 100 villages are situated within it. In the ESZ around Valmiki Wildlife Sanctuary, Valmiki National Park and Valmiki Tiger Reserve in Bihar, 323 villages are situated within it. In the ESZ around Betla National Park, Palamau Wildlife Sanctuary, and Mahuadanr Wolf Sanctuary in Jharkhand, 382 villages are situated within it. In the ESZ around Cauvery Wildlife Sanctuary in Karnataka, 107 villages are situated within it. In the ESZ around Kanha National Park and Phen Wildlife Sanctuary in Madhya Pradesh, 168 villages are situated within it. In the ESZ around Tadoba-Andhari Tiger Reserve in Maharashtra, 150 villages are situated within it. In the ESZ around Jaisamand Wildlife Sanctuary in Rajasthan, 83 villages are situated in it.

Even in a small ESZ around Keoladeo National Park in Rajasthan, 22 villages situated in it.

48. If the direction as issued by this Court in paragraph 56.5 of the order dated 3rd June 2022 (supra) is continued, then no permanent structure would be permitted to come up for whatsoever purpose in the aforesaid ESZs. As already pointed out from the aforesaid examples, hundreds of villages are situated within the ESZs in the country. If no permanent construction is to be permitted for any purpose, a villager who is desirous to reconstruct his house would not be permitted. Similarly, if there is an extension in their family and some additional construction is required for accommodating the enlarged family, the same would also not be permitted. Similarly, if the Government decides to construct schools, dispensaries, anganwadis, village stores, water tanks and other basic structures for improvement of the life of the villagers, the same would also not be permitted. The effect of the order will be to prevent the State or the Central Government from constructing roads and provide other facilities to the villagers.

49. If the order dated 3rd June 2022 (supra) is not modified, it will also be impossible for the Forest Departments to conduct eco-development activities around National Parks and Sanctuaries. The said activities are required with the dual objectives of protection of wildlife and provision of benefits for the local communities. MoEF & CC provides financial assistance to the States under the Centrally Sponsored Scheme-Integrated Development of Wildlife Habitats, which includes assistance for eco-development activities. These activities often involve construction of small structures which are permanent in nature in areas including ESZs. For example, the said activities which are likely to be prohibited are thus:

- (i) The construction of community halls, bridges, threshing floors, fish-drying platforms, drinking water storage, etc., for the benefit of local communities/villages;
- (ii) The construction of forest chowkies, watch towers, and other structures for protection of wildlife and forests;
- (iii) The construction of interpretation centres, toilets and other basic structures

for the environmental education of visitors to National Parks and sanctuaries.

50. It is further to be noted that there are various regulated and permissible activities. There are also certain projects of national and strategic importance such as construction of National Highways, Railways, Defence related infrastructure etc. The effect of the direction in 56.5 of the order dated 3rd June 2022 (supra) is that all such activities will be permanently prohibited. In this respect, it is to be noted that MoEF & CC has issued an Office Memorandum dated 17th May 2022 which required that any activity listed in Schedule of the EIA Notification 2006, when conducted in a notified ESZs, or in the case of National Parks and Sanctuaries for which no ESZ has been finally notified, when conducted within 10 kilometres of such National Park or Sanctuary, requires the consideration and recommendation of the NBWL or its Standing Committee in addition to the Environment Clearance under the 1986 Act. Additionally, activities which are regulated as per the specific ESZ notification, require

approval as per that notification. As such, we find that there are inbuilt safeguards for preventing rampant construction and abuse of process which may be detrimental to the development and maintenance of wildlife habitats. It is further to be noted that if the direction as contained in paragraph 56.5 of the order dated 3rd June 2022 (supra) that even for continuation of existing activities, the permission of the PCCF of each State or Union Territory would be necessary, remains unmodified, taking into consideration that in each State or Union Territory there will be hundreds of villages wherein millions of people would be residing, the PCCF would be left with no other job except to consider such applications for permission to continue such activities. Even a farmer desirous to continue farming activities would be required to seek such permission. We find that such a direction is impossible to be implemented.

51. We are of the view that if such a direction is continued, rather than avoiding man-animal conflict, it will intensify the same. As observed in the said Guidelines, the requirement of declaring ESZs is not to hamper day to day activities of the

citizens but is meant to protect the precious forests/Protected Areas from any negative impact, and to refine the environment around the Protected Areas.

52. As already discussed hereinabove, the necessity to have ESZs is to provide a buffer zone around the Protected Areas. The rights of the villagers residing in the Protected Areas are required to be settled in accordance with the provisions contained in the 1972 Act and such villagers are rehabilitated outside the Protected Areas. However, no such settlement of rights is available to the villagers residing in the ESZs areas. As stated in the said Guidelines, the purpose of declaring ESZs is not to hamper the day to day activities of the citizens. If the direction as issued is continued, it would certainly hamper the day to day activities of the citizens residing in ESZs. As such, we find that the said direction needs to be modified.

53. It is further to be noted that the NBWL, in its meeting dated 17th March 2005, has also recommended that the delineation of ESZs should project as regulation rather than prohibition of activities.

54. As was pointed out by the counsel for one of the States, the entire municipal area of the Sulthan Bathery Block Panchayat is situated within the ESZ area.

55. Insofar as direction in paragraph 56.1 of the order dated 3rd June 2022 (supra) is concerned, a perusal of various orders would reveal that this Court has not directed any minimum area from the demarcated boundary of such Protected Areas. The area to be declared as ESZ cannot be uniform and will be Protected Area specific. In some cases, it may be 10 kilometres on one side and 500 meters on the other side. In certain cases, it may not be possible to have a uniform minimum area by virtue of inter-state boundaries or a sea or a river beyond one side of the Protected Area. In any case, a detailed procedure is required to be followed as prescribed under Rule 5 of the 1986 Rules which we have already referred hereinabove. We find that once such a notification is issued after following the procedure prescribed under the 1986 Rules, the ESZs will have to be as per the said notification.

56. It is further to be noted that, as required under sub-rule (3) of Rule 5 of the 1986 Rules, before any final notification is issued, a draft notification is required to be published in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time. Any person interested in filing any objection to such a draft notification is entitled to file objection within a period of 60 days from the date of publication of the draft notification in the Official Gazette. We find that the Central Government can be directed to give a wide publicity to the draft notification so that all persons interested have knowledge about issuance of such draft notification.

57. It is pertinent to note that after following the aforesaid procedure, the matter is placed before the Expert Committee consisting of 13 organizations having expertise in the relative field. As such, before an ESZ area is specified, various factors are taken into consideration. There are various factors which will determine the ESZs for a particular Protected Area. The circumstances may differ from one Protected Area to another Protected Area. As such, we find that the direction which

prescribes a uniform one kilometre ESZ requires to be modified.

58. It is further to be noted that on the date of filing of the present application, final notifications have been issued in respect of 474 Protected Areas whereas draft notifications have been issued in respect of 102 Protected Areas. 73 proposals are pending. As already discussed hereinabove, this Court has already found the said Guidelines to be reasonable and has accepted the same. The Court has also accepted the view of the Standing Committee of the NBWL that uniform guidelines may not be possible in respect of each Sanctuary or National Park for maintaining ESZs. Though the Court has observed that a minimum width of one kilometre in ESZ ought to be maintained, in paragraph 56.6 of the order dated 3rd June 2022 (supra) itself, it has observed that minimum width of the ESZ may be diluted in overwhelming public interest but for that purpose the State or Union Territory concerned is required to approach Central Empowered Committee (CEC) and MoEF & CC. It has further observed that both these bodies shall give their respective

recommendations before this Court and on that basis, the Court should pass appropriate order.

59. As already discussed hereinabove, the ESZs are required to be notified after following the procedure as prescribed under the 1986 Rules and the said Guidelines. Such notifications cannot be issued unless a close scrutiny at various levels including the scrutiny by Expert Committee consisting of experts from 13 organizations. As such, we find that the direction as contained in paragraph 56.6 of the order dated 3rd June 2022 (supra) also needs to be modified.

60. Insofar as the restriction on mining is concerned, we are of the considered view that it has been the consistent view of this Court that the mining activities within an area of one kilometre of the boundary of the Protected Areas will be hazardous for the wildlife. Though in the case of **Goa Foundation** (supra), the said directions were issued in respect of State of Goa, we find that such directions need to be issued on Pan-India basis.

61. We are therefore inclined to allow the present I.A. The direction in paragraph 56.1 of the order dated 3rd June 2022

(supra) is modified and clarified that the directions contained therein would not be applicable to the ESZs in respect of which a draft and final notification has been issued by the MoEF & CC and in respect of the proposals which have been received by the Ministry.

62. We, however, direct the Central Government that wide publicity should be given to the draft notification which is required to be published under the provisions of clause (a) of sub-rule (3) of Rule 5 of the 1986 Rules. We further direct that the final notification to be published under clause (d) of sub-rule (3) of Rule 5 of the 1986 Rules shall not be given effect for a period of 30 days from the date of issuance thereof.

63. It is further directed that any person who is aggrieved with such a final notification would be entitled to approach this Court directly by filing an application in the present proceedings.

64. We further clarify that the direction contained in paragraph 56.1 of the order dated 3rd June 2022 (supra) would not be applicable where the National Parks and

Sanctuaries are located on inter-State borders and/or share common boundaries.

65. We also modify the direction contained in paragraph 56.4 of the order dated 3rd June 2022 (supra) and direct that mining within the National Park and Wildlife Sanctuary and within an area of one kilometre from the boundary of such National Park and Wildlife Sanctuary shall not be permissible.

66. We also modify the directions contained in paragraph 56.5 of the order dated 3rd June 2022 (supra) and replace the same as under:

- (i) The MoEF & CC and all the State/Union Territory Governments shall strictly follow the provisions in the said Guidelines dated 9th February 2011 and so also the provisions contained in the ESZs notifications pertaining to the respective Protected Areas with regard to prohibited activities, regulated activities and permissible activities;

(ii) We further direct that while granting Environmental and Forest Clearances for project activities in ESZ and other areas outside the Protected Areas, the Union of India as well as various State/Union Territory Governments shall strictly follow the provisions contained in the Office Memorandum dated 17th May 2022 issued by MoEF & CC.

67. All the other present I.As shall stand disposed of in terms of the above. No costs.

.....**J.**
[B.R. GAVAI]

.....**J.**
[VIKRAM NATH]

.....**J.**
[SANJAY KAROL]

NEW DELHI;
APRIL 26, 2023

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

IA NO. 3949 OF 2016
IN
WRIT PETITION (C) NO. 202 OF 1995

IN RE :
T.N. GODAVARMAN THIRUMULPADPetitioner(s)

VERSUS

UNION OF INDIA & ORS.Respondent(s)

AND

IN THE MATTER OF:

M/S. PUNTAMBEKAR MINERALS
(THROUGH ITS PROPRIETOR
SHRI DILIP BHAUSAHEB MADAKE) ...Applicant(s)

J U D G M E N T

B.R. GAVAI, J.

1. When we pronounced our judgment in I.A. No. 131377 of 2022 along with connected applications in Writ Petition (Civil) No. 202 of 1995 on 26th April 2023, we did not anticipate that within a few days, we would be called upon to clarify the position as to whether mining activities would

be permissible beyond the distance of one kilometer from the boundary of the Protected Area, irrespective of the fact that such an area falls under the Eco-Sensitive Zone (in short "ESZ") notified by the Ministry of Environment, Forest and Climate Change ("MoEF" for short).

2. We are grateful to the applicant in the present application for giving us this opportunity to clarify this position so that further environmental damage is avoided.

3. The case of the applicant, in brief, is that the applicant was granted permission to execute a mining lease as early as in 2005, subject to clearance from MoEF as well as the National Board for Wild Life.

4. Shri Ranjit Kumar, learned senior counsel appearing for the applicant, submits that the area where the applicant proposes to carry out the activity is beyond 2.26 kilometer from the nearest boundary of the Radhanagari Wildlife Sanctuary. It is, therefore, submitted that it

falls beyond a distance of one kilometer from the boundary of the Protected Area.

5. Mr. Ranjit Kumar, learned senior counsel, therefore, relying on our judgment dated 26th April 2023 passed in in I.A. No. 131377 of 2022 along with connected applications in Writ Petition (Civil) No. 202 of 1995, the ink of which is yet to dry, submits that, since mining is proposed to be carried out beyond a distance of one kilometer from the boundary of Protected Area, it would very much be permitted.

6. Learned senior counsel submits that this Court has clearly held that mining within a distance of one kilometer from the boundary of the Protected Area is banned. He submits that, however, the judgment does not prohibit mining activities even in ESZ, which is a buffer area, if it extends beyond a distance of one kilometer from the boundary of the Protected Area.

7. He, however, submits that this would be subject to permission from the Standing

Committee of National Board for Wild Life (in short "SCNBWL"), which admittedly, has granted permission.

8. Mr. Balbir Singh, learned Additional Solicitor General appearing for the Union of India as well as Mr. A.D.N. Rao, learned Amicus Curiae have vehemently opposed this prayer and they submit that the contention of the applicant is based on a misreading of the directions issued by this Court.

9. We find that the directions issued in paragraph 65 of the judgment of this Court delivered on 26th April 2023 are very much clear.

It reads thus:

"65. We also modify the direction contained in paragraph 56.4 of the order dated 3rd June, 2022 (Supra) and direct that mining within the National Park and Wildlife Sanctuary and within an area of one kilometre from the boundary of such National Park and Wild Life Sanctuary shall not be permissible."

10. The perusal of the above para would reveal that the directions, which were issued by this

Court earlier for prohibiting mining activities within a distance of one kilometer from the boundary of such National Parks and Wildlife Sanctuaries only insofar as the State of Goa was concerned, has been made applicable pan-India.

11. The aforesaid question arose since in case of some of the National Parks and Wildlife Sanctuaries, the ESZ areas are less than one kilometer. In some, it is as less as 500 meters and in some others, it is even less than 500 meters.

12. We, therefore, clarified that even in case where the ESZ boundaries are less than one kilometer from the Protected Area, the ban on mining shall extend upto a distance of one kilometer from the boundary of such areas.

13. It will further be relevant to refer to paragraph 66.1 of our judgment dated 26th April, 2023, which reads thus:

"66(i) The MoEF & CC and all the State/Union Territory Governments shall strictly follow the provisions in the said Guidelines

dated 9th February 2011 and so also the provisions contained in the ESZs notifications pertaining to the respective Protected Areas with regard to prohibited activities, regulated activities and permissible activities;"

14. It could thus clearly be seen that we have directed that MoEF as well as all the State Governments/Union Territories shall strictly follow the provisions in the Guidelines dated 9th February, 2011, as also the provisions contained in the ESZs notifications pertaining to the respective Protected Areas with regard to prohibited activities, regulated activities and permissible activities.

15. As such, our directions are very much clear. Whatever is prohibited under the 2011 guidelines and whatever is additionally prohibited under the specific ESZ notifications of the particular Protected Areas have to be strictly followed.

16. The perusal of paragraph 40 of the judgment dated 26th April 2023 would reveal that the very first activity, which is contained in Annexure-

I of the Guidelines, is commercial mining and the same is prohibited.

17. Apart from that, it will also be relevant to refer to paragraph 4 of the Notification dated 15th October, 2020 vide which a final notification had been notified in so far as the ESZ for Radhanagari Sanctuary is concerned, which reads thus:

"4. List of activities prohibited or to be regulated within Eco-sensitive Zone.- All activities in the Eco-sensitive Zone shall be governed by the provisions of the Environment (Protection) Act, 1986 and the rules made there under including the Coastal Regulation Zone, 2011 and the Environmental Impact Assessment Notification, 2006 and other applicable laws including the Forest (Conservation) Act, 1980 (69 of 1980), the Indian Forest Act, 1927 (16 of 1927), the Wildlife (Protection) Act 1972 (53 of 1972), and amendments made thereto and be regulated in the manner specified in the Table below, namely:-

S.No. (1)	Activity (2)	Description (3)
A. Prohibited Activities.		

1.	Commercial mining, stone quarrying and crushing units	<p>(a) All new and existing mining (minor and major minerals), stone quarrying and crushing units shall be prohibited with immediate effect except for meeting the domestic needs of bona fide local residents including digging of earth for construction or repair of houses within Eco Sensitive Zone;</p> <p>(b) The mining operations shall be carried out in accordance with the order of the Hon'ble Supreme Court dated the 4th August, 2006 in the matter of T.N. Godaverman Thirumulpad Vs. UOI in W.P.(C) No. 202 of 1995 and dated the 21st April, 2014 in the matter of Goa Foundation Vs. UOI in W.P(C) No. 435</p>
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		of 2012.
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18. It could thus clearly be seen that Clause (a) of the Notification of the MoEF also clearly mentions that all the new and existing minor and major minerals, stone quarrying and crushing units shall be prohibited with immediate effect, except for meeting the domestic needs of bona fide local residents, including digging of earth for construction or repair of houses within ESZ.

19. No doubt that Clause (b) of the Notification of the MoEF mentions that the mining operation shall be carried out in accordance with the order of this Court dated 04th August 2006 in the matter of T.N. Godavarman Thirumulpad Vs. Union of India reported in (2010) 13 SCC 740 and order dated 21st April 2014 in the case of Goa Foundation v. Union of India and Others reported in (2014) 6 SCC 590.

20. However, the last word on the issue is the judgment dated 26th April 2023. The notification

is dated 15th October 2020, i.e. prior to the pronouncement of our judgment.

21. As such, the provisions made in clause 1(b) of paragraph 4 of the Notification dated 15th October 2020 would now become redundant in view of our judgment and order dated 26th April 2023.

22. As such, any activity, which is prohibited by both the guidelines as well as the ESZ notification shall strictly be prohibited. Since the mining activity in ESZ area is a prohibited activity, there is no question of such an activity being permitted in an ESZ area even if it falls beyond the distance of one kilometer from the boundary of the protected area.

23. We clarify that even if in a particular case, the ESZ is more than one kilometer, still, if the concerned area where mining is proposed falls within the ESZ, the mining activity will not be permitted, even if it falls in an area which is beyond one kilometer from the boundary

of the Protected Area.

24. The prohibition of one kilometer from the boundary of Protected Area is only with regard to the cases where the boundary of ESZ is less than one kilometer from the boundary of the sanctuary. Only in such cases, the ban on mining will travel beyond the ESZ area and cover an area upto a distance of one kilometer.

25. The aforesaid directions were issued in order to protect the National Parks and Wildlife Sanctuaries so that the mines would not become a death trap for the flora and fauna within them.

26. Apart from that, the judgment dated 26th April 2023 is delivered by a Bench of three Judges of this Court, which is binding on us.

27. As such the application is rejected.

.....J
(B.R. GAVAI)

.....J
(VIKRAM NATH)

New Delhi
April 28, 2023