

GAHC010086122020



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

I.A.(Civil) No.3677 of 2025
In PIL No.35 of 2020

Oil India Limited, a Company Incorporated under the Companies Act, 1956, having its Registered Office at Duliajan, PO: Duliajan, District: Dibrugarh, Assam, PIN – 786602, represented by its Resident Chief Executive, Oil India Limited.

.....Applicant

-Versus-

1. Shri Mrinmoy Khataniar,
Son of Late Bijoy Ch. Khataniar,
Resident of Narikalbari Path, M.T. Road,
Guwahati – 781024.

2. Shri Amar Jyoti Deka,
Son of Late Bhabendra Nath Deka,
Resident of House No. 20, Namoni Path, Karbi Path, Mother
Teresa Path, PO: Bamunimaidam, PS: Geetanagar, Guwahati
– 781021, Assam.

.....Opposite Parties

3. The Union of India, represented by the Secretary,
Ministry of Petroleum and Natural Gas, Government of
India, Shastri Bhawan, New Delhi – 110003.

4. The secretary to the Government of India, Ministry of
Environment, Forest and Climate Change, Indira Paryavaran
Bhawan, Jorbagh Road, New Delhi – 110003.

5. The State of Assam, represented by the Chief Secretary
to the Government of Assam, Dispur, Secretariat Complex,

Guwahati – 781006.

6. The Principal Secretary to the Government of Assam, Environment and Forest Department, Dispur, Guwahati – 781006.

7. The Principal Chief Conservator of Forests Force, H-Block, 2nd Floor, Janata Bhawan, Dispur, Guwahati – 781006, Assam.

8. The Principal Conservator of Forests (Wildlife), H-Block, 2nd Floor, Janata Bhawan, Dispur, Guwahati – 781006, Assam.

9. The National Board for Wildlife, represented by the Standing Committee of National Board for Wildlife, Ministry of Environment, Forest and Climate Change (Wildlife Division), 6th Floor, Vayu Wing, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi – 110003.

10. State Board for Wildlife, represented by its Chairman, Dispur, Secretariat Complex, Guwahati – 781006.

11 The Deputy Commissioner, Tinsukia, District, PO: Borguri, Tinsukia, Assam, PIN – 786126.

12: The Commissioner and Secretary, Mines and Minerals Department, Government of Assam, Dispur, Secretariat Complex, Guwahati – 781006.

13. The Central Pollution Control Board, ENVIS Secretariat, represented by its Chairman, Vayu Wing, 6th Floor, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi – 110003.

14. The State Pollution Control Board, Government of Assam, represented by its Chairman, Milanpur, West Jyoti Nagar, Bamunimaidam, Assam, PIN – 781004.

15. Assam State Biodiversity Board, Aranya Bhawan, 2nd floor, Panjabari, represented by its Member Secretary.

.....Proforma
Opposite Parties

– BEFORE –
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the Applicant : Mr. P.K. Goswami, Senior Advocate (through Video Conferencing) assisted by Mr. K. Majumder, Advocate.

For the Petitioners : Ms. R.S. Chowdhury, Advocate for petitioners [respondent Nos.1 & 2 in I.A. (Civil) No.3677/2025].

For the Respondents : Mr. R.K.D. Choudhury, Deputy Solicitor General of India.
: Mr. R.J. Das, Advocate for respondent No.15.

Date of Order : **21.01.2026.**

ORDER

(Ashutosh Kumar, CJ)

We have heard Mr. P.K. Goswami, learned Senior Advocate, assisted by Mr. K. Majumder, learned Advocate for the applicant; Mrs. R.S. Chowdhury, learned Advocate for the respondent Nos.1 & 2; Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India for the Union of India and Mr. R.J. Das, learned Advocate for respondent No.15.

2. In the connected Public Interest Litigation, i.e. PIL No.35/2020, challenge has been made to the Notification dated 16.01.2020 issued by the Ministry of Environment, Forest and Climate Change, Government of India (*hereinafter to be referred as "MoEFCC"*), whereby an amendment has been made in the Environment Impact Assessment (EIA) Notification dated 14.09.2006, reclassifying all on-shore and off-shore oil and gas exploration Projects from Category-A to Category-B2, thereby exempting such Projects from mandatory requirement of public hearing and consultation.

3. Thus, the legality and validity of the Environmental Clearance approval dated 11.05.2020 granted by the MoEFCC to M/s Oil India Limited for extension drilling and testing of Hydrocarbons at 7(seven) locations within the Dibru Saikhowa National Park (*hereinafter to be referred as "DSNP area"*) has been questioned on the ground that the said Environmental Clearance was issued in violation of the Supreme Court's order dated 07.09.2017 passed in ***T.N. Godavarman Thirumulpad -Vs- Union of India***. The petitioners have contended that the Supreme Court had specifically directed that Oil India Limited shall be bound by the undertaking given on 25.07.2017 under which Oil India Limited was required to carry out a biodiversity impact assessment study through the Assam State Biodiversity Board, for which a budgetary offer had already been obtained on 12.05.2017, prior to undertaking any drilling activity.

4. The petitioners have alleged that the said direction of the Supreme Court has not been complied with inasmuch as the Oil India Limited has not yet carried out the Biodiversity Impact Assessment Study through the Assam State Biodiversity Board. Thus, the decision of the Environmental Appraisal Committee dated 28.02.2017 pertaining to on-shore oil and gas development, drilling and production in Tinsukia and Dibrugarh Districts and 7(seven) locations under DSNP area, doing away with the requirement of public hearing for the Projects of Oil India Limited, has been questioned.

The petitioners have stated that Dibru Saikhowa is a National Park as well as a Biosphere Reserve situated in the South Bank of river Brahmaputra, which is one of the most vibrant forest reserves on earth

and is also distinct for its pristine scenic beauty. It is the largest salix swamp forest in North Eastern India, which has a rich and vibrant eco system with hundreds of species of plants, trees, birds and animals.

5. A gas producing well in Baghjan was drilled by the Oil India Limited in the year 2006. After the successful exploration and production of gas, another new sand in the area was being tested, wherein there was a major blowout after a 14(fourteen) days leak, resulting in the death of 2(two) employees of the Oil India Limited. This had a cascading effect on the environment. In the recent past also, the petitioners have contended that there were 2(two) other blowouts, one at an OIL-owned oil well in Dikhom (Dibrugarh) in 2005 and an ONGC-owned oil well in Rudrasagar in the 1970s. Both these blowouts took several months to be contained.

6. It was in this context that in the preliminary hearing of the PIL, the Bench hearing the matter, passed an *interim* order on 07.12.2020 that till the Assam State Biodiversity Board completed the task of impact assessment, no clearance shall be given to any activity and the Environmental Clearance issued on 11.05.2020 shall not be given effect to for extension drilling and testing of Hydrocarbons at 7(seven) locations by Oil India Limited under DSNP area at Tinsukia. However, on the submission made by the counsel for the Oil India Limited that the subject matter is under consideration by the Supreme Court as also by the National Green Tribunal (NGT), the Bench clarified that the *interim* order, referred to above, would be subject to any other order that may be passed or shall be passed by the Supreme Court or National Green

Tribunal, as the case may be.

It was further clarified in the afore-noted *interim* order that the stay on Environmental Clearance dated 11.05.2020 will not be operative for other purposes, namely, research and development study but without any commercial implication.

7. By the present Interlocutory Application filed on behalf of the Oil India Limited (respondent No.9 in the PIL), modification in the *interim* order dated 07.12.2020 has been prayed for, seeking permission for carrying out drilling activity only for the purpose of research and development to assess the impact of Extended Reach Drilling (ERD) without any commercial implication. The applicant/respondent No.9 contends that the ERD study proposed by the Directorate General of Hydrocarbons, Ministry of Petroleum & National Gas, Government of India shall not cause any diversion of forest land on the surface and the outcome of the proposed activity would not be used for any commercial purpose but only for research purposes to monitor the various impacts including anthropogenic disturbance on forest and wildlife for prescribing for and not resulting into any commercial exploration/implications.

It was also prayed by the learned counsel for the applicant/respondent No.9 that the compliance of the recommendations of the Standing Committee of National Board for Wildlife (NBWL) and the directions of the Supreme Court shall be ensured and there shall be preventive measures to ensure that there is no contamination of surface water, flaring of gas, noise pollution, oil spills, fire hazards, etc. For such purposes, barricades would be erected around the drilling plinths with

safety zones.

8. For passing any order on such prayer made by the applicant/respondent No.9 in this interlocutory application, there would be some necessity of charting out the course of the Oil India Limited in drilling oil wells in the area.

9. Oil India Limited, a Government of India Enterprise, is engaged in the business of exploration, development and production of crude oil and natural gas, transportation of crude oil and production of Liquefied Petroleum Gas (LPG). India is highly energy deficient country and, therefore, 80% of the country's Hydrocarbon requirements are imported. Thus, there is a mandate of the Government to enhance Hydrocarbon production for reducing the imports. The Government has, towards the afore-noted objective, implemented the New Exploration Licensing Policy (NELP) and Open Acreage Licensing Policy (OALP) for exploration of Hydrocarbon resources in the country. Petroleum exploration licenses are granted under the New Exploration Licensing Policy (NELP).

10. The Baghjan structure was first identified in the year 1991 and the drilling began in March, 2003.

11. With the discovery of oil and gas in Baghjan in the year 2003, the Assam Government, with the prior approval of the Ministry of Petroleum & Natural Gas, Government of India, granted petroleum mining lease to Oil India Limited for carrying out exploration and production activities in the year 2003 for a period of 20(twenty) years. Oil India Limited had also obtained the Environmental Clearance from the MoEFCC. However, later

because of the presence of Baghjan mining lease boundary and the Baghjan oil well being limited by the Dangori River and DNSP, exploration work could not be continued beyond the mining lease boundary, notwithstanding the fact that the geo-scientific data indicated towards oil/gas bearing sands below the river bed and beneath the DNSP. Precisely for this reason, the Oil India Limited intended to drill 7(seven) extension/appraisal locations in that area to understand the limit of the oil/gas reserve. The purpose definitely was to extract Hydrocarbons ultimately.

12. However, in ***T.N. Godavarman Thirumulpad -Vs- Union of India & Ors. :: (2016) 13 SCC 586***, it was directed that before grant of any permission for implementation of Projects in areas falling in National Parks/Sanctuaries, considerations will have to be made by the Standing Committee of the National Board for Wildlife (NBWL).

13. At the request of the OIL, the Supreme Court directed the Standing Committee of National Board for Wildlife to consider the proposal of the applicant/ respondent No.9.

14. The Expert Appraisal Committee gave a green signal, pursuant to which MoEFCC granted terms of reference in faovur of the applicant/ respondent No.9 for the purposes of extension drilling and testing of Hydrocarbons at 7(seven) locations under DSNP, asking the applicant/respondent No.9 to submit the final Environmental Management Plan.

15. The applicant/respondent No.9 claims to have made a detailed

representation before the 20th Expert Appraisal Committee. Since the MoEFCC had earlier granted Environmental Clearance for drilling wells in Tinsukia District way back in the year 2011, in which elaborate public hearing was conducted, the applicant/ respondent No.9 contended that for this Project, public hearing be exempted as the locations fall in the same District where earlier public hearing was done. This requirement was accepted by the Environmental Appraisal Committee and the public hearing under the EIA Notification of 2006 was dispensed with.

16. As noted above, the MoEFCC on 16.01.2020 also came out with an amendment in the earlier EIA Notification of 2006 and categorized all on-shore and off-shore oil and gas exploration Projects as Category-B2 from Category-A Project for which public hearing was not required.

17. The core challenge in the connected PIL is against such amendment in the EIA Notification of 2006.

18. Mr. P.K. Goswami, learned Senior Advocate for the applicant/respondent No.9 has also submitted that a tripartite Memorandum of Understanding has been signed between the Assam State Biodiversity Board, International Union for Conservation of Nature & Natural Resources and Oil India Limited for the proposed 7(seven) Extended Reach Drilling (ERD) wells for the purposes of conservation of nature and natural resources in compliance with the orders and judgments of the Supreme Court. A report was also submitted to the Assam State Biodiversity Board which has accepted the revised Rapid Biodiversity Impact Assessment Study report for drilling of proposed

7(seven) numbers of Extended Reach Drilling (ERD) wells beneath the DSNP.

Mr. Goswami has further informed this Court that Oil India Limited, in consultation with an international firm, namely, M/s Cudd Well Control, has also arranged for undertaking mitigating measures in case of any eventuality causing oil spillage inside the DSNP area.

Under the afore-noted circumstances, as an *interim* measure, it has been prayed that the stay operating on Environmental Clearance be lifted partially to the extent of carrying out research and development drilling activity for assessing the impact of the technology of Extended Reach Drilling (ERD) but without any commercial implication.

19. In one of the agendas of the minutes of the meeting of the Advisory Committee held on 27.01.2025, the Committee had deliberated on such request and has recommended that proposed research and development study may be allowed in the location of DSNP, subject to the condition that it will not cause any diversion of forest land on the surface and the outcome of the proposed activity will not be used for any commercial purpose and will be used purely for research purposes to monitor the impact of anthropogenic disturbance on forest and wildlife and it shall not have any commercial implication.

20. Mrs. R.S. Chowdhury, learned counsel for the petitioners/respondent Nos.1 & 2, however, submits that in the garb of research and development, the applicant/respondent No.9 will continue with its drilling operations which will further aggravate the fragility of the eco-system in the area.

21. On a careful consideration of the facts of this case and taking into account the fact that research and development for testing the viability of the new technology of Extended Reach Drilling (ERD), which would otherwise be very useful in future as also the need for exploration and production of Hydrocarbons, we are of the view that in the interregnum, before the connected PIL is finally disposed off, permission be granted for research and development of Extended Reach Drilling (ERD) technique in the Dibru Saikhowa National Park area but with all the care not to cause any diversion of forest land or other hazards, but subject to the condition that such research and development exercise, shall not have any commercial implication.

We also say so for the reason that this permission is already there in the *interim* order which is sought to be modified.

22. We order accordingly.

23. The Interlocutory Application stands disposed off.

24. Registry to list the connected PIL No.35/2020 along with I.A. (Civil) No.1578/2020 on **25.03.2026**.

JUDGE

CHIEF JUSTICE

Comparing Assistant