

GAHC010193572020



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

Case No. : WP(C)/8867/2018

M/S. M.D.K. BRICK FIELD
REP. BY SOLE PROPRIETOR OF THE FIELD BY MD. KUDUS SHAH
AGE ABOUT 40 YEARS

R/O NO. 1 MAKUM PATHER

P.O. AND P.S. MARGHERITA
SUB-DIVISION- MARGHERITA
DIST. TINSUKIA
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY COMMISSIONER AND SECRETARY REVENUE AND DISASTER
MANAGEMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-06.

2:THE DEPUTY COMMISSIONER

DIST. TINSUKIA
ASSAM

PIN - 786125.

3:THE SUB-DIVISIONAL OFFICER

MARHERITA SUB DIVISION

DIST. TINSUKIA

ASSAM
PIN - 786181

Advocate for : MR. I A TALUKDAR
Advocate for : SC
REVENUE appearing for THE STATE OF ASSAM AND 2 ORS.

BEFORE
THE HON'BLE MR. JUSTICE PRASANTA KUMAR DEKA
ORDER

12.03.2021.

Heard Mr. I. A. Talukdar, the learned counsel for the petitioner. Also heard Ms. P. Phukan, the learned State Counsel, Assam for the respondent Nos. 2 and 3.

Vide order dated 21.12.2018, this court was pleased to stay the impugned order dated 26.10.2018 to the extent of demolition of Unit-II of MDK Brick Field within 10 days. From the perusal of the impugned order dated 26.10.2018, this court was satisfied to stay the operation in respect of demolition of Unit-II of MDK Brick Field, however, the order No.TA1/1/2017 dated 12.01.2018 which was declared void and withdrawn pertains to the cancellation of the No Objection Certificate which is still in force.

Ms. Phukan on the earlier occasion, received the instruction from the Additional Deputy Commissioner, (Revenue), Tinsukia vide letter dated 28.01.2021 in response to a query by this court as to whether the petitioner is operating the MDK Brick Kiln Unit-II which was the subject matter of the NOC dated 12.01.2018 which was declared void and withdrawn by the impugned order dated 26.10.2018 in this writ petition. The relevant instruction is extracted herein below:-

“1. M/S MDK Brick Kiln Unit-II is still in running condition and thereby it violates the order of the Deputy Commissioner, Tinsukia that was issued vide this office Letter No. TRS.10.2019/12 dated 20.12.2019 (Later enclosed ANNEX-II)

2. The license of the Brick Industry has been granted in favour of Kudush Shah as occupier of M/S MDK Brick Field Unit-II.

3. Subsequently, it has also come to the notice that the occupier has violated the order of the Deputy Commissioner, Tinsukia by renewing his Trade License dated 09.06.2020 from Chief Inspector of Factories, Govt. of Assam.

4. Lastly, M/S MDK Brick Kiln Unit-II stands in 200 mtrs. distance from Unit-I, which in turn violates the provision stated under "The Assam Brick Kilns Establishment and Regulation Rules, 2013".

In view of the same, Ms. Phukan shall take necessary instruction as to whether there is any existing valid NOC in order to run MDK Brick Kiln Unit-II which as per the instruction referred hereinabove was in running condition violating the order of the Deputy Commissioner, Tinsukia.

List this matter on 23.04.2021.

The letter dated 28.01.2021 issued by the Additional Deputy Commissioner (Revenue), Tinsukia is kept on record.

JUDGE

Comparing Assistant