

GAHC010044482017



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

Case No. : WP(C)/6298/2017

DILIP RANJAN CHAKRABORTY
S/O- LATE DABESH CHAKRABORTY, VILL- BAGARGOOL, P.O-
RAKESHNAGAR, DIST- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM and 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
DEPARTMENT OF FOOD AND CIVIL SUPPLY AND CONSUMER AFFAIRS
DEPARTMENT, DISPUR, GHY-6

2:THE DEPUTY COMMISSIONER
KARIMGANJ
P.O AND DIST- KARIMGANJ
ASSAM
PIN- 788710

3:THE DEPUTY DIRECTOR
FOOD
CIVIL SUPPLY AND CONSUMER AFFAIRS
KARIMGANJ
P.O AND DIST- KARIMGANJ
ASSAM
PIN- 788110

4:THE REGISTRAR CO-OPERATIVE SOCIETY
ASSAM
KHANAPARA
GUWAHATI-22

5:THE ASSISTANT REGISTRAR
CO-OPERATIVE SOCIETY

KARIMGANJ
STEAMERGHAT ROAD
KARIMGANJ TOWN
P.O AND DIST- KARIMGANJ
PIN- 788710

6:THE CHAIRMAN
SUBHASH NAGA
CO-OPERATIVE SOCIETY LTD.
P.O- RAKESH NAGAR
DIST- KARIMGANJ
ASSAM
PIN- 788710

7:SUMITA PAUL
W/O- LATE BIDYUT PAUL
R/O- VILL- BAGARGOOL
P.O- RAKESH NAGAR
DIST- KARIMGANJ
ASSAM
PIN- 78871

Advocate for the Petitioner : MR. N AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

12-05-2023

Heard Mr. A. R. Sikdar, learned counsel for the petitioner; Ms. S. Sarma, learned Junior Government Advocate, Assam for the respondent nos. 1, 2 & 3 and Mr. G. Bordoloi, learned Standing Counsel, Cooperation Department for the respondent nos. 4 & 5.

2. Though the names of the learned counsel for the respondent no. 7 are reflected in the cause-list, none of them has appeared today on call.

3. Both the petitioner and the respondent no. 7 are residents of village - Bagargool, Post

Office - Rakeshnagar, District - Karimganj, Assam.

4. The petitioner has instituted the instant writ petition challenging the appointment of the respondent no. 7 as a Fair Price Shop licensee [Retailer] for the Village - Bagargool by an order dated 27.12.2016 passed by the respondent no. 3. The ground of challenge in respect of the appointment of the respondent no. 7 as a licensee of Fair Price Shop [FPS] is that the appointment was not preceded by any kind of advertisement and selection process. On the other hand, an advertisement was published on 30.05.2016 for appointment of FPS licensee [Retailer] for the Village - Chandrapur by the Secretary, Subhash Nagar Cooperative Society Ltd., Post Office - Rakesh Nagar, District - Karimganj.

5. The vacancy for the FPS licensee [Retailer] in respect of Village - Bagargool occurred on 24.11.2016 as the previous FPS licensee [Retailer], Bidyut Paul expired on 24.11.2016. After the death of Bidyut Paul, that is, the previous FPS licensee [Retailer] at Village - Bagargool, necessity for appointment of a new FPS licensee [Retailer] in respect of Village - Bagargool arose. When the petitioner was waiting to participate in the selection process on publication of an advertisement in that regard, the impugned order dated 27.12.2016 came to be passed by the respondent no. 3 whereby the respondent no. 7 came to be appointed as the FPS licensee [Retailer] the Village - Bagargool.

6. It has emerged from the records that the earlier FPS licensee [Retailer], Late Bidyut Paul was the husband of the respondent no. 7. The FPS licensee [Retailer] is an appointed dealer who sales any one or more of the notified articles to such holders of Family Identity Cards, at such prices, in such quantities, and such of the items as may be ordered by the Licencing Authority, after purchasing the notified articles from a Sub-Wholesaler, appointed for the purpose. It is the Licencing Authority who issues licensees to the retailers under the provisions of the Assam Public Distribution of Articles Order, 1982 [the APDA Order, 1982 for short]. In respect of a particular district, the jurisdictional Deputy Commissioner is the Licencing Authority under the APDA Order, 1982.

7. From the affidavit-in-opposition filed by the respondent no. 2 i.e. the Deputy

Commissioner, Karimganj, it has emerged that there is a set of guidelines of the Ministry of Consumer Affairs, Food and Public Distribution [Department of Public Distribution], Krishi Bhavan, New Delhi vide D.O. no. 6[7] 2004-PD1 [Pt-III] dated 03.12.2004 and D.O. no. 6[7] 2004-PD1[Pt-IV] dated 29.11.2004, which had laid down guidelines for appointment of retailers/agents of Fair Price Shops [FPSs]. Those guidelines were communicated to the State Government in the Food and Civil Supply Department vide Memo no. FSA. 391/2004/6 dated 01.04.2005. It is averred that the guidelines have provisions for giving preference to the cooperative of women, ex-servicemen and legal heirs in the matter of allotment of Fair Price Shop [FPS]. It is further stated that in the Standing Instructions contained in the Government letter no. FSA.12/96/187[A] dated 16.06.1997, there are provisions for filling up such vacancies arising out of death, resignation, etc. with legal heirs of a retail licensee. It has been asserted therein that the respondent no. 7 came to be appointed as the FPS retailer/agent on the recommendation of the PRIs and as per the resolution adopted by the Managing Committee of the jurisdictional Co-operative Society, on compassionate ground vide the Order dated 27.12.2016.

8. The aforesaid statements and averments made by the respondent no. 2 as the Licencing Authority has not been controverted and traversed by the petitioner by filing any affidavit-in-reply. As it has emerged that the respondent no. 7 came to be appointed as the Fair Price Shop licensee [Retailer] at Village - Bagargool, Post Office - Rakeshnagar, District - Karimganj, Assam on compassionate ground after the death of her husband, Late Bidyut Paul, who was the previous FPS licensee [Retailer] in conformity with the guidelines then in force and the Standing Instructions of the State Government, this Court does not find any good and sufficient reason to interfere with the order dated 27.12.2016 passed by the respondent no. 3. Consequently, the writ petition being bereft of any merits, stands dismissed. No cost.

JUDGE

Comparing Assistant