

GAHC010063352023



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

Case No. : WP(C)/1674/2023

ABDUL HAMID SARKAR
S/O- LATE HAJI JOYNAL ABEDIN, VILL- AMBARI, P.O. AMBARI BAZAR, P.S.
BAGUAN, DIST.- GOALPARA, ASSAM, PIN- 783129, LICENSE NO. PDS-
360/86

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECY., DEPTT. OF FOOD AND PUBLIC DISTRIBUTION,
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION,
KRISHI BHAWAN, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPTT.
DISPUR
GHY-06

3:THE DIRECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
GUWAHATI- 05

4:THE DEPUTY COMMISSIONER
GOALPARA (ASSAM)
PIN- 780121

5:THE ASSISTANT COMMISSIONER
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS

GOALPARA (ASSAM)
PIN- 780121

6:THE DEPUTY DIRECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
GOALPARA (ASSAM)
PIN- 780121

7:THE SUPPLY INSPECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
GOALPARA (ASSAM)
PIN- 78012

Advocate for the Petitioner : MR. A F N U MOLLAH

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/8272/2022

MANULLAH SHEIKH
S/O- LT. JOHOR UDDIN
VILL- AMBARI KADOTIKA
P.O. BALARBHITA
P.S. BAGUAN
DIST.- GOALPARA
ASSAM
PIN- 783129
LICENSE NO. PDA- 1429/2013

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECY.
DEPTT. OF FOOD AND PUBLIC DISTRIBUTION
MINISTRY OF CONSUMER AFFAIRS
FOOD AND PUBLIC DISTRIBUTION
KRISHI BHAWAN
NEW DELHI- 110001

2:THE STATE OF ASSAM

REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM

FOOD

CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPTT.

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3:THE DIRECTOR

FOOD

CIVIL SUPPLIES AND CONSUMER AFFAIRS

ASSAM

GHY-05

4:THE DY. COMMISSIONER

GOALPARA (ASSAM)

PIN- 780121

5:THE ASSTT. COMMISSIONER

FOOD

CIVIL SUPPLIES AND CONSUMER AFFAIRS

GOALPARA (ASSAM)

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6:THE DY. DIRECTOR

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CIVIL SUPPLIES AND CONSUMER AFFAIRS

GOALPARA (ASSAM)

PIN- 780121

7:THE SUPPLY INSPECTOR

FOOD

CIVIL SUPPLIES AND CONSUMER AFFAIRS

GOALPARA (ASSAM)

PIN- 780121

Advocate for : MR. A F N U MOLLAH

Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 6 ORS

BEFORE

HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

11.04.2023

Heard Mr. A.F.N.U. Mollah, learned counsel for the petitioners in WP(C) No.1674/2023 and WP(C) No.8272/2022. Also heard Ms. K. Phukan, learned counsel for the Union of India and Mr. R. Talukdar, learned counsel for the State respondents.

2. The petitioners' case is that they are licence holders of fair price shops having less than 50 cardholders and as such, their shops have been closed down and their cardholders have been tagged along with the fair price shops having more than 50 cardholders, in terms of the Government of India Scheme of "One Nation Ration Card".

3. The petitioners' counsel submits that subsequent to the above, the Joint Secretary to the Government of Assam, Food, Civil Supplies & Consumer Affairs Department has written a letter dated 29.10.2021, wherein a direction had been passed that fair price shops having 50 or less than 50 NFSA ration cards will continue their operation, provided the owners of the Fair Price Shops are widows and specially abled persons.

4. The petitioners' counsel submits that the petitioners are specially abled persons and as such, they should be allowed to re-open their fair price shops, which they have been operating earlier. He submits that though the petitioner in WP(C) No.1674/2023 has submitted a representation dated 21.02.2023 to the Deputy Commissioner, Goalpara and the petitioner in WP(C) No.8272/2022 has submitted a representation dated NIL to the Deputy Commissioner, Goalpara, no decision has been taken by the Deputy Commissioner till date. He accordingly submits that the writ petition can be closed, if a direction is issued to the Deputy Commissioner, Goalpara, to take a decision on the petitioners' representations within a specific time period.

5. In this regard, he has also relied upon the order dated 06.12.2022 passed in WP(C) No. 5042/2022, wherein in a similar case, a direction has been passed to the Government to verify the disability certificate of those persons to enable them to reopen their fair price shops, if they were found to be specially abled persons.

6. Mr. R. Talukdar, learned counsel for the State Government submits that he has got no objection to the prayer of the petitioner's counsel, provided that the petitioners' disability comes within the parameters laid down by the Government for running fair price shops having 50 or less than 50 beneficiaries, in terms of the letter No. FSA.81/2009/Pt-III/404 dated 29.10.2021 issued by the Joint Secretary to the Government of Assam, Food, Civil Supplies & Consumer Affairs Department. He however submits that the disability of the petitioner in WP(C) No.8272/2022 seems to have occurred only after the issuance of the Joint Secretary's letter dated 29.10.2021.

7. On considering the submissions made by the learned counsels for the parties and on perusing the order dated 06.12.2022 passed in WP(C) No. 5042/2022, it is clear that fair price shops having 50 or less than 50 cardholders would have to close down. However, fair price shops having 50 or less than 50 card holders, which are run by widows or specially abled persons, can continue to do so, in terms of the letter dated 29.10.2021 issued by the Joint Secretary to the Government of Assam, Food, Civil Supplies & Consumer Affairs Department. In the present case, the petitioner in WP(C) No.1674/2023 has submitted a Certificate showing that he is having 50% of hearing impairment and the petitioner in WP(C) No.8272/2022 has 45% hearing impairment.

8. In view of the above facts and with the consent of the parties, this writ petitions are disposed of at the motion stage itself, with liberty being given to the petitioners to submit fresh representations to the Deputy Commissioner, Goalpara, to allow the petitioners to run their fair price shops on the ground that they are specially abled persons. The Deputy commissioner, Goalpara shall take a decision with regard to whether the petitioners come within the definition of specially abled persons, as per the parameters and guidelines laid down by the Government, to decide whether the petitioners can take the benefit of the letter dated 29.10.2021 issued by the Joint Secretary to the Government of Assam, Food, Civil Supplies & Consumer Affairs Department. The entire exercise should be concluded by the Deputy Commissioner, Goalpara, within a period of 2 (two) months from the date of receipt of the petitioners' representation along with a certified copy of this order. It is needless to add that the petitioners shall submit all the medical documents in support of their stand that they are specially abled persons along with their applications.

JUDGE

Comparing Assistant