

GAHC010065742023



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

Case No. : WP(C)/1758/2023

BOZLUR RAHMAN
S/O- LATE ROHIM BOXO SHEIKH,
VILL- TAKIMARI PATHALIAPARA,
P.O- TAKIMARI, P.S- LAKHIPUR,
DIST- GOALPARA, ASSAM, PIN-783132, LICENSE NO- PDS-825/94

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY , DEPARTMENT OF FOOD AND PUBLIC
DISTRIBUTION , MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC
DISTRIBUTION, KRISHI BHAWAN, NEW DELHI- 01

2:THE STATE OF ASSAM
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT DISPUR
GHY-06

3:THE DIRECTOR
OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT ASSAM
BHANGAGARH
GHY-05

4:THE DEPUTY COMMISSIONER
DIST-GOALPARA
ASSAM
PIN-783121

5:THE ASSISTANT COMMISSIONER
FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
DIST-GOALPARA
ASSAM
PIN-780121

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

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

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

Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 29-03-2023

1. Heard Mr. AFNU Mollah, learned counsel for the petitioner, who submits that the petitioner was a License Holder of a Fair Price Shop having 46 card holders as beneficiaries under M/s Takimari S.S. Limited in Goalpara District. The Government of India came up with a new scheme of "One Nation One Ration Card" wherein Fair Price Shops having 50 or less than 50 card holders were to be shut down and the beneficiaries were to be tagged alongwith those Fair Price Shops having more than 50 card holders.

2. The petitioner's counsel submits that as the petitioner's Fair Price Shop was having less than 50 card holders, his Fair Price Shop has been closed and the beneficiaries of the petitioner's Fair Price Shop have been tagged with another Fair Price Shop.

3. The petitioner's 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 petitioner's counsel submits that the petitioner is a specially abled person having hearing impairment of 50%. As such, the petitioner should be allowed to reopen the Fair Price Shop that he had operating earlier. He submits that though the petitioner has submitted a representation dated 19.02.2023 to that effect to the Deputy Commissioner, Goalpara, no decision has been taken on the petitioner's representation till date. He accordingly, submits that a direction should be issued to the Deputy Commissioner, Goalpara, to take a decision on the petitioner's representation 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. S Baruah, learned counsel for the State Government submits that he has got no objection to the prayer of the petitioner's counsel, provided that the

petitioner's 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.

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 card holders 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 has submitted a certificate showing that he is 69 years of age and having hearing impairment of 50%.

8. In view of the above facts and with the consent of the parties, this writ petition is disposed of at the motion stage itself, with liberty being given to the petitioner to submit a fresh representation to the Deputy Commissioner, Goalpara, to allow the petitioner to run his Fair Price Shop on the ground that he is a specially abled person. The Deputy commissioner, Goalpara shall take a decision with regard to whether the petitioner comes within the definition of specially abled person, as per the parameters and guidelines laid down by the Government, to decide whether the petitioner 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 petitioner's representation alongwith a

certified copy of this order. It is needless to add that the petitioner shall submit all the medical documents in support of his stand that he is a specially abled person alongwith his application.

JUDGE

Comparing Assistant