

GAHC010066162022



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

Case No. : WP(C)/2507/2022

ARUN KUMAR MAHATO
S/O. LT. RAM BIRCH MAHATO, R/O. BYE LANE NO.1, JAIN GALI, KEDAR
ROAD, GUWAHATI-781009, P.S. BHARALUMUKH, DIST. KAMRUP (M),
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM.

2:THE GUWAHATI MUNICIPAL CORPORATION

REP. BY THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-781001.

3:THE COMMISSIONER

GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI-781001.

4:THE DEPUTY COMMISSIONER

WEST ZONE
GUWAHATI MUNICIPAL CORPORATION
GUWAHATI-781001.

5:GAUTAM DEV GOSWAMI

S/O. LT. DEVENDRA NARAYAN DEV GOSWAMI
R/O. G.S. ROAD

MANIPURI BASTI
P.S. PALTAN BAZAR
GUWAHATI-781008
DIST. KAMRUP (M)
ASSAM.

6:HIROK GOSWAMI
S/O. LT. DEVENDRA NARAYAN DEV GOSWAMI
R/O. G.S. ROAD
MANIPURI BASTI
P.S. PALTAN BAZAR
GUWAHATI-781008
DIST. KAMRUP (M)
ASSAM

For the Petitioner : Mr. N.N. Jha, Advocate.
Ms. P. Das, Advocate.

For the Respondents : Mr. D. Goswami (R-5).
Ms. S. Chutia, SC, GMC.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

26.07.2023

The instant writ petition has been filed challenging the order dated 21.12.2021 issued by the Commissioner, GMC whereby the trade license of the Petitioner was cancelled with immediate effect.

2. When the matter was listed on 21.07.2023, Mr. P. Nayak, the learned counsel appearing on behalf of the GMC had submitted that the trade license was cancelled on account of non-furnishing of the No Objection Certificate from the landlords i.e. the Respondent Nos. 5 and 6. It is well settled that an order passed by a public authority is required to contain reasons and the same cannot be supplemented at a later stage by way of clarification or by way of an affidavit. On this ground, the impugned order dated 21.12.2021 is required to

be set aside.

3. Be that as it may, taking into account the issue involved, this Court is of the opinion that it is required that the order dated 21.12.2021 be tested on the basis of the reasons so stated by Mr. P. Nayak, the learned counsel appearing on behalf of the GMC.

4. The Petitioner herein carries on the business of a pan shop in the name and style of 'Arun Pan Shop' and had obtained a trade license from the Respondent Authorities. The entire livelihood of the Petitioner is based upon the said pan shop. The said trade license has been renewed by the Respondent GMC authorities from time to time. However, on account of the No Objection Certificate not issued by the Respondent Nos. 5 & 6 who are the landlords, the GMC authorities have cancelled the trade license. It is under such circumstances, the instant writ petition has been filed.

5. This Court finds it relevant at this stage to observe that without a trade license, the Petitioner cannot carry on his business of pan shop legally. Under such circumstances, the livelihood of the Petitioner is dependent on the said trade license. It is the opinion of this Court that the Respondent Authorities cannot decline renewal or even cancel the trade license on the grounds of failure/refusal of the landlord to issue the No Objection Certificate inasmuch as the same would effect the Petitioner's livelihood. Under such circumstances, the instant writ petition therefore stands disposed off thereby setting aside the order dated 21.12.2021 issued by the Commissioner, GMC, Panbazar and further directing the Commissioner, GMC to reissue the trade license to the Petitioner subject to the Petitioner complying with the other terms and conditions of the trade license.

6. With the above, the instant petition stands disposed off.

JUDGE

Comparing Assistant