

GAHC010075792023



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

Case No. : WP(C)/1991/2023

M/S AJANTA FOOTCARE (INDIA) PVT LTD
HAVING ITS HEAD OFFICE AT 79/2,
AJC BOSE ROAD, KOLKATA, 700014, WEST BENGAL
AND HAVING ONE OF ITS OUTLETS AT TIWARI COMPLEX,
GROUND FLOOR, MALIGAON CHARIALI, PANDU,
GUWAHATI, KAMRUP(M), ASSAM,
PIN- 781012
AND IS REPRESENTED BY ITS REGIONAL SALES MANAGER,
MR. DIPANKAR ROY,
SON OF SRI GIRINDRA SANKAR ROY,
RESIDENT OF COLONY BAZAR,
KALAPAHAR, GUWAHATI, P.S. FATASIL AMBARI,
GUWAHATI, KAMRUP(M),
ASSAM, PIN- 781025.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
MUNICIPAL ADMINISTRATION DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:GUWAHATI MUNICIPAL CORPORATION
REPRESENTED BY ITS COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PAN BAZAAR
GUWAHATI- 781001

ASSAM.

3:THE COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
PAN BAZAAR
GUWAHATI- 781001
ASSAM.

4:DEPUTY ENFORCEMENT OFFICER
GUWAHATI MUNICIPAL CORPORATION
PANBAZAR
GUWAHATI
ASSAM
PIN- 781001

Advocate for the Petitioner : MR. A K SAHEWALLA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 06-04-2023

1. Heard Mr. AK Sahewalla, learned counsel for the petitioner, who submits that the petitioner is dealing in retail sale of footwears. He submits that while Show Cause Notice dated 14.03.2023 had been issued to the petitioner, asking to make a reply as to why action should not be taken against him, as he was not having a trade license for running his trade, the petitioner immediately procured a trade license on 15.03.2023. However, the respondent authorities sealed the outlet of the petitioner on 15.03.2023.

2. The petitioner's counsel submits that while the petitioner wanted to submit the reply to the Show Cause Notice dated 14.03.2023 on 20.03.2023,

the respondents refused to accept the reply of the petitioner.

3. The petitioner's counsel submits that though the trade license that had been procured on 15.03.2023 expired on 31.03.2023 and the petitioner was to take out a license immediately before the 1st day of April, 2023, in terms of Section 180 of the Gauhati Municipal Corporation Act, 1971, the petitioner did not do the same. He submits that the petitioner will be applying for a new trade license for running his trade, if the same has not been done already.

4. The petitioner's counsel thus prays that his outlet for running his trade should be de-sealed, as the proceedings in relation to the Show Cause Notice dated 14.03.2023 would, in any event, run its own course.

5. Mr. S Bora, learned Standing Counsel, GMC submits that in terms of Section 180 of the Gauhati Municipal Corporation Act, 1971, the petitioner was required to take out a fresh license before 1st April 2023, and as such, the petitioner cannot be allowed to continue with his trade in the absence of any trade license. He accordingly, submits that no order should be passed for de-sealing the property.

6. I have heard the learned counsels for the parties.

7. The pleadings show that the petitioner has been dealing in the sale of footwears since September 2022 and as such, the petitioner was to apply for a license before the 1st day of April, 2023, as the earlier license expired on 31.03.2023. There is nothing to show whether the petitioner has again applied for and taken out a fresh trade license, which appears to be a mandatory requirement. A reading Section 180 of the Gauhati Municipal Corporation Act, 1971 shows that every person, who exercises or carries in the city, either by himself or by an agent or representative, any of the professions, trades or

callings indicated in the Fourth Schedule, shall annually take out a license before the 1st day of April in each year or within one month of his taking up the profession, trade or calling, as the case may be.

8. In this particular case, as the petitioner has been dealing in the sale of footwears since September, 2022, the petitioner was to have applied for a fresh trade license and was to have taken out the said license before the 1st day of April, 2023. However, the petitioner has apparently not done the same. There are two parts to Section 180 of the Gauhati Municipal Corporation Act, 1971. The 1st part being that the person has to take out a license before the 1st day of April each year. The 2nd part is that the person has to take out the trade license within one month of his taking up the profession, trade or calling, if he has not been able to take out a license before the 1st day of April.

9. This Court is of the view that the 2nd part of Section 180 is not applicable to the case of the petitioner, inasmuch as, the petitioner has been dealing in the sale of footwears since September 2022. However, this Court is also of the view that as and when the petitioner is able to take out a fresh trade license, the continued sealing of his outlet would not be valid/proper. Accordingly, this Court is of the view that the writ petition can be disposed of at the motion stage itself, as the only issue is the de-sealing of the outlet of the petitioner as and when he is able to take out a trade license. Accordingly, as and when the petitioner is able to show the GMC his fresh/new and valid trade license for his trade, the GMC shall de-seal his property/outlet. The issue with regard to the issuance of the Show Cause Notice dated 14.03.2023 and the proceedings to be taken therein will follow its own course. It is made clear that as soon as the new/fresh trade license for running the trade of the petitioner is shown to the GMC, the

de-sealing of the property/outlet should be done immediately.

10. The writ petition stands disposed of accordingly.

JUDGE

Comparing Assistant