

GAHC010091182023



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

Case No. : WP(C)/2509/2023

HIKMAT HAND AND POWER LOOM PRODUCTION CENTRE PVT LTD
A SOCIETY REGISTERED UNDER ASSAM PANCHAYATI RAJ ACT 1972 (ACT
XI OF 1972),
REPRESENTED BY ITS PROPRIETOR ABU BAKKAR SIDDIK,
AGED ABOUT 44 YEARS,
S/O- HIKMAT ALI,
VILL- HELOCHAR PAM, P.O.- NALIGAON,
P.S.- SARTHEBARI, DIST- BARPETA,
ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY,
MINISTRY OF TEXTILE,
GOVERNMENT OF INDIA,
UDYOG BHAWAN, NEW DELHI 110001.

2:THE STATE OF ASSAM
REPRESENTED BY COMMISSIONER AND SECRETARY

HANDLOOM AND TEXTILE DEPARTMENT

DISPUR
GUWAHATI-06
ASSAM.

3:THE DIRECTOR OF HANDLOOM AND TEXTILE
AMBARI
GUWAHATI-06
ASSAM.

4:THE ASSISTANT DIRECTOR HANDLOOM TEXTILES

DISTRICT- BARPETA
PIN- 781301

ASSAM.

5:THE SUPERINTENDENT OF HANDLOOM AND TEXTILE

DISTRICT-
PIN 781301
ASSAM.

6:THE DEPUTY COMMISSIONER OF BARPETA DISTRICT

DISTRICT- BARPETA
PIN- 781301

ASSAM

For the petitioner (s) : Mr. B. K. Das, Advocate

For the respondent (s) : None appears

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

13.09.2023

The instant writ petition has been filed by the petitioner seeking a direction upon the respondent authorities to allow the petitioner to carry out the business and to produce quality clothes in his Power Loom Production Centre, i.e. Hikmat Hand and Power Loom Production Centre Pvt. Ltd. located at village-Helochar Pam, P.O.-Naligaon, P.S.-Sarthebari, in the district of Barpeta, Assam and also for a direction to the concerned Department of the Government of Assam to formulate a policy allowing the Power Loom users to produce handloom products by using quality

materials such as silk, cocoon, eri etc. as per law.

2. This Court has perused the writ petition. From a perusal of the writ petition and the Annexure-8 which is the handloom (Reservation of Articles for Production) Act, 1985 (for short, 'the Act of 1985'), it transpires that the Central Government has been empowered under Section 3 of the said Act of 1985 to specify articles for exclusive production by handloom. In that regard, it is relevant to mention that the products which the petitioner wishes to produce/manufacture in the Power Loom are products which come within the ambit of the notification which has been issued in terms with Section 3 of the Act of 1985. This aspect of the matter could be seen from the notification dated 15.12.2000 issued by the Central Government.

3. Taking into account the above, as the said articles come within the ambit of Section 3 of the Act of 1985, no writ can be issued till such articles remain within the ambit of the notification issued under Section 3 of the Act of 1985.

4. The learned counsel for the petitioner, however, submits that by virtue of Section 18 of the Act of 1985, the Central Government can exempt certain articles which have been mentioned in the notification issued under Section 3 of the Act of 1985. Be that as it may, it does not transpire from the records that the petitioner has approached the Central Government to do so, and as such, the question of issuing a mandamus does not arise.

5. Accordingly, the instant writ petition, therefore, is devoid of any merit for which the instant writ petition stands dismissed.

6. Be that as it may, the learned counsel for the petitioner submits that the dismissal of the writ petition should not preclude the petitioner to challenge the notification under Section 3 of the Act of 1985 as well as to approach the Central Government seeking exemption in terms with Section 18 of the Act of 1985.

7. This Court is of the opinion that the said submission is fair, and as such, grants liberty to the petitioner to challenge the notification issued under Section 3 of the Act of 1985, if so permissible under law.

8. It is also made clear that the dismissal of the instant writ petition shall not preclude the petitioner to approach the Central Government seeking exemption.

JUDGE

Comparing Assistant