

GAHC010131382020



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

Case No. : WP(C)/4005/2020

HAJI NUR UDDIN
S/O LATE ABTAB ALI
RESIDENT OF LADHIN LASKAR PATHAR,
PO AND PS LANKA,
DIST HOJAI ASSAM 782442

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
DEPARTMENT, DISPUR GUWAHATI 6

2:THE DIRECTOR
FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM BHANGAGARH GUWAHATI 5

3:THE ASSISTANT DIRECTOR

FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
HOJAI
SANKARDEV NAGAR
782442

4:THE DEPUTY COMMISSIONER
HOJAI
SANKARDEV NAGAR
782442

5:THE INSPECTOR

FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
HOJAI
SANKARDEV NAGAR
782442

6:THE SECRETARY
LASKAR BHALUKMARI SAMABAY SAMITTE LTD

PO AND PS LANKA
DIST HOJAI ASSAM
782442

7:NASIDUL HAQUE
INSPECTOR
FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
HOJAI
SANKARDEV NAGAR
782442

8:MATAB UDDIN AHMED (SECRETARY)
LASKAR BHALUKMARI SAMABAY SAMITTE LTD

PO AND PS LANKA
DIST HOJAI ASSAM
78244

For the Petitioner(s) : Mr. D. P. Borah, Advocate

For the Respondent(s) : Ms. M. Barman, Jr. Government Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 11.09.2023

1. The instant writ petition has been filed challenging the order dated 27.03.2018 issued by the Deputy Commissioner, Hojai, Sankardev Nagar whereby the Petitioner's license bearing No.HJS/PDS/F.P./427/86 was cancelled with immediate effect.

2. A perusal of the instant writ petition shows that on alleged violation of certain clauses of Assam Public Distribution of Articles Order, 1982 (for short "the Order of 1982") and the terms and conditions of the license issued in favour of the Petitioner, the license of the Petitioner bearing No.HJS/PDS/F.P./427/86 was suspended under the provisions of Clause 15(1) of the Order of 1982 and the Petitioner was asked to submit his show cause reply vide a communication dated 12.02.2018. The Petitioner duly submitted his show cause reply which was received by the Office of the Deputy Commissioner, Hojai, Sankardev Nagar on 24.02.2018. Vide the impugned order, the Deputy Commissioner, Hojai, Sankardev Nagar cancelled the license of the Petitioner stating that the reply to the said show cause notice submitted by the Petitioner was not satisfactory. No other reasons was assigned as to why the reply was unsatisfactory. The Petitioner being aggrieved had filed the instant writ petition challenging the said impugned order.

3. It is well settled principles of law that when an Administrative Authority passes an order entailing civil consequences and there are no reasons assigned therein, the said orders so passed without assigning any reasons renders the order arbitrary and unreasonable and thereby violates the mandate of Article 14 of the Constitution. In the instant case, as it would be apparent that there was no reasons assigned in the impugned order dated 27.03.2018, the said order is in violation of Article 14 of the Constitution and accordingly, the same is set aside and quashed. Be that as it may, the setting aside of the impugned order for the reasons assigned herein above cannot be a reason to nullify the entire proceedings initiated on the basis of the show cause notice dated 12.02.2018. Accordingly, it is the opinion of this Court that interest of justice would be met if the proceedings are restored back to 12.02.2018 when the Petitioner was issued

a Show Cause notice and his license was suspended.

4. Mr. D. P. Borah, the learned counsel appearing on behalf of the Petitioner further submits that there are certain additional materials which have come into light which he would like to place it before the Deputy Commissioner, Hojai, Sankardev Nagar.

5. Taking into account the above, this Court permits the Petitioner to file an additional show cause reply within 10 days from today thereby enclosing such other documents/materials as deemed fit and proper which has relevance to the show cause notice dated 12.02.2018. This Court further directs that taking into account the mandate of Clause 15(2) of the Order of 1982, the Deputy Commissioner, Hojai, Sankardev Nagar or the Additional Deputy Commissioner, In-charge, Hojai shall decide the said proceedings initiated on the basis of the show cause notice dated 12.02.2018 within a period of 90 days. Accordingly, this Court deems it proper to pass appropriate directions infra.

6. The instant writ petition therefore stands allowed with the following observations and directions:

(i) The order dated 27.03.2018 passed by the Deputy Commissioner, Hojai, Sankardev Nagar thereby cancelling the license of the Petitioner bearing No.HJS/PDS/F.P./427/86 is set aside and quashed thereby restoring the position to the date i.e. 12.02.2018 on which the show cause notice was issued and the Petitioner's license was suspended.

(ii) As already observed, the Petitioner is given the liberty to submit an additional reply to the show cause notice dated 12.02.2018. The said show cause proceedings be brought to the logical conclusion within 90 days from the date of submission of the certified copy of this order. It is made clear that the

additional show cause reply shall be entertained if within 10 days from today, the additional show cause reply is filed.

JUDGE

Comparing Assistant