

GAHC010178112023



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

Case No. : WP(C)/4699/2023

GHANA KANTA NATH
SON OF SRI NARESWAR NATH, RESIDENT OF VILLAGE- MADELIGAON,
P.O. BHUYANKHAT, P.S. TANGLA, DISTRICT- UDALGURI (BTR), ASSAM,
PIN- 784525

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT, DISPUR,
GUWAHATI-06

2:THE DIRECTOR
OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
BHANGAGARH
GUWAHATI-05

3:THE DEPUTY COMMISSIONER
UDALGURI
P.O. AND P.S. UDALGURI
DISTRICT- UDALGURI (BTR)
ASSAM
PIN- 784509

4:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
KOKRAJHAR
P.O. AND P.S. KOKRAJHAR
DISTRICT- KOKRAJHAR (BTR)
ASSAM

PIN- 783370

5:THE SUPERINTENDENT
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
UDALGURI P.O. AND P.S. UDALGURI
PIN- 784525 DISTRICT- UDALGURI (BTR)
ASSAM

6:THE SUB-DIVISIONAL OFFICER
BHERGAON SUB-DIVISION
P.O. AND P.S. BHERGAON
DISTRICT- UDALGURI (BTR)
ASSAM PIN- 784528

7:THE ASSISTANT DIRECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
BHERGAON SUB-DIVISION
P.O. AND P.S. BHERGAON
DISTRICT- UDALGURI (BTR)
ASSAM PIN- 78452

Advocate for the Petitioner : MR R S CHAUHAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
ORDER**

21.08.2023

Heard Mr. R.S. Chauhan, learned counsel for the petitioner; Mr. S.S. Roy, learned Junior Government Advocate, Assam for the respondent nos. 1 – 3; and Ms. R.B. Bora, learned Standing Counsel, BTC for the respondent nos. 4 – 7.

2. The petitioner was granted a licence of Fair Price Shop [FPS] vide Licence no. BH FCS & CA 127/PDS/R/MJK/2016/111 under the provisions of the Assam Public Distribution of Articles [APDA] Order, 1982. The petitioner used to operate his Fair Price Shop [FPS] at Village – Madeligaon, P.O. Dalonghat, District – Udalguri within the area of operation of M/s Majikuchi Samabai Samiti Limited. The petitioner renewed his licence from time to time and lastly, his licence was renewed up to 2025. In the meantime, the respondent authorities have

taken a decision to attach some of the consumers/ration card holders, earlier attached with the petitioner's Fair Price Shop [FPS], with a newly opened Fair Price Shop [FPS] and as a result, the number of consumers/ration card holders, attached the petitioner's Fair Price Shop [FPS], have fallen below 50.

3. The Department of Food, Civil Supplies and Consumer Affairs, Government of Assam took a decision, conveyed vide a letter under Memo no.

DS.81/2020/516-A dated 07.08.2021, to tag the ration cards of Fair Price Shops [FPSs] having 50 or less than 50 ration cards with the nearest Fair Price Shops [FPSs] having more than 50 ration cards under a scheme named One Nation One Ration Card [ONORC] Scheme. The petitioner has asserted that he is a specially abled person suffering from 66% hearing impairment disability and the Government of India issued a Unique Disability ID being UDID no. AS2710019690043668 dated 19.11.2022 wherein the percentage of disability of hearing impairment of the petitioner is shown as 66%. Since a policy decision has already been taken by the State Government in its Cabinet Meeting, held on 19.10.2021, to exempt the Fair Price Shops [FPSs] having 50 or less than 50 ration cards the owners of which are either widows or specially abled persons, from the purview of the One Nation One Ration Card [ONORC] Scheme, the decision not to allot PDS articles to the Fair Price Shop [FPS] of the petitioner, who has a Fair Price Shop [FPS] licence issued under the APDA Order, 1982, is improper and unjust.

4. Mr. Roy, learned Junior Government Advocate, Assam and Ms. Bora, learned Standing Counsel, BTC appearing for the State respondents have conjointly submitted that it appears that the petitioner has already submitted Representations before the Deputy Commissioner, Udalguri [the respondent no. 3] and the Superintendent [Food, Civil Supplies and Consumer Affairs], Udalguri [the respondent no. 5], on 10.04.2023, seeking his exemption from the purview of the One Nation One Ration Card [ONORC] Scheme as a specially abled person. They have submitted that in such view of the matter, the writ petition can be disposed of at this stage with a direction to the said two authorities, in consultation with each other, to consider the Representations submitted by the petitioner before them.

5. From the Disability Certificate issued by the District Disability Board, Udalguri and the Unique Disability ID being UDID no. AS2710019690043668 dated 19.11.2022, appended to the writ petition, it *prima facie* appears that the petitioner is a specially abled person having 66% disability of hearing impairment. In such view of the matter, the respondent no. 3 and the respondent no. 5, in consultation with one another, shall consider the case of the petitioner by taking into consideration the policy decision of the State Government to exempt the cases of the specially abled person from the purview of One Nation One Ration Card [ONORC] Scheme. Accordingly, this writ petition is disposed of with a direction to the respondent no. 3 and the respondent no. 5 to consider the case of the petitioner, in consultation with one another, for exemption from the purview of One Nation One Ration Card [ONORC] in the exempted category of specially abled person within a period of 4 [four] weeks from the date of submission of a certified copy of this order and a copy of the writ petition with annexures, at their offices by the petitioner, along with an application accompanied by all the necessary certificates/documents including the Disability Certificate, the Unique Disability ID card, copies of which have been appended to this writ petition, in support of his claim regarding specially abled person and for exemption from the purview of the One Nation One Ration Card [ONORC] Scheme. If after due consideration, the respondent no. 3 and the respondent no. 5 find that the petitioner falls in the category who can be exempted from the purview of the One Nation One Ration Card [ONORC] Scheme, then necessary steps shall be taken forthwith thereafter, for allotment of PDS articles to the Fair Price Shop [FPS] of the petitioner and/or renewal of PDS licence of the petitioner under the APDA Order, 1982. The entire exercise is to be completed within a period of 1 [one] month from the date of submission of this order.

6. This order disposes of the writ petition.

JUDGE

Comparing Assistant