

GAHC010195502022



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

Case No. : WP(C)/6314/2022

ABDUL MAZID TALUKDAR
S/O- LT. TUSHAR ALI, R/O- VILL- KHOLABONDHA, P.O. KHOLABONDHA,
P.S. KACHUMARA, DIST.- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, FOOD AND
CIVIL SUPPLIES DEPTT., DISPUR, GHY, ASSAM

2:THE DY. COMMISSIONER
BARPETA DIST.- BARPETA
ASSAM

3:THE DY. DIRECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
BARPETA
ASSAM

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : MR. C K S BARUAH, GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 27-02-2023

Heard Mr. R.P. Sarma, learned Senior Counsel assisted by Ms. T. Som, learned counsel for the petitioner and Mr. N. Goswami, learned Junior Government Advocate, Assam for all the respondents.

2. The case projected by the petitioner, in brief, is that the petitioner's uncle viz. Rafet Ali was a licensee [agent] of a Fair Price Shop [FPS] for the location at Kholabondha Village under M/s South Bogoribari Samabai Samity. After demise of Rafet Ali [original licensee], the petitioner applied for the FPS license in his name. By an order dated 22.03.2022, the respondent no. 3 had appointed the petitioner as the FPS licensee in place of Late Rafet Ali, who expired on 06.04.2015. The petitioner completed the necessary formalities including deposit of license fee, etc., in terms of the direction made in the order dated 22.03.2022.

3. The petitioner was thereafter, asked to submit a list of beneficiaries, for grant of allotment of articles in respect of the FPS license by the authority. He had earlier submitted a list of beneficiaries, 11 in nos. In view of such lesser number of beneficiaries, the petitioner was not granted any allotment of articles by the respondent authorities. According to the petitioner, 226 nos. of beneficiaries of Kholabondha Village under M/s South Samabai Samity have expressed their readiness and willingness to buy articles from the fair price shops of the petitioner. At present, those 226 nos. of beneficiaries are getting their articles from the fair price shop of one Fajal Hoque, another FPS licensee. According to the petitioner, those 226 nos. of beneficiaries have been facing problems in collecting their allotted articles from the fair price shop of Fajal Hoque as they have to cross a river channel to reach the fair price shop of Fajal Hoque. According to the petitioner, the said 226 nos. of beneficiaries have already submitted a representation before the respondent no. 3 to allow them to collect their allotted quantities of articles from the fair price shop of the petitioner and Fajal Hogue, the other FPS licensee, has also provided a No Objection Certificate [NOC] to that effect. The instant writ petition has been preferred seeking **inter alia** a direction to the respondent authorities to give allotment of articles to the fair price shop of the petitioner by addition those 226 nos. of the beneficiaries under M/s South Bogoribari Samabai Samity, presently attached to the fair price shop of Fajal Hoque with the fair price shop of the petitioner.

4. Having regard to the projections made in the afore-stated manner, Mr. Goswami, learned Junior Government Advocate, Assam has submitted that such decision regarding addition of beneficiaries to the fair price shop of the petitioner is a decision to be taken by the

respondent authorities, more particularly, the respondent no. 2 and the respondent no. 3 after causing necessary investigation and after hearing the stakeholders. To take such decision, the petitioner should approach the said authorities, more particularly, the respondent no. 3 by submitting a representation with regard to his claim.

5. Mr. Sarma, learned Senior Counsel has also agreed to such submission made by Mr. Goswami, learned Junior Government Advocate, Assam.

6. In view of broad consensus arrived at by the learned counsel for the parties in the afore-stated manner, this Court is of the considered view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the petitioner to submit detail representation with regard to his prayer for addition of beneficiaries to his fair price shop and for allotment of articles before the respondent no. 3 along with all the supporting documents and on submission of such a representation, the respondent authorities shall consider the representation in accordance with law and on its own merits. It is accordingly ordered. The petitioner shall submit a detail representation with regard to his request for addition of beneficiaries to his fair price shop before the respondent no. 3 within a period of 2 [two] weeks from the date of receipt of a certified copy of this order and if such a representation is filed by the petitioner, the respondent no. 3 shall consider the same on its own merits and in accordance with law and procedure and if necessary by hearing all the stakeholders and thereafter, decide the representation within a period of 3 [three] weeks from the date of receipt of the representation. It is clarified that the writ petition has been disposed of without adverting to the merits of the claim of the petitioner and as such, the respondent no. 3 shall consider such representation on its own merits and in accordance with law.

7. This order disposes of the writ petition.

JUDGE

Comparing Assistant