

GAHC010240082023



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

Case No. : I.A.(Civil)/3196/2023

SIRAJUL ISLAM,
S/O- LATE GAFUR ALI,
R/O- VILLAGE HADIGAON ,
P.O- TUKURA,
P.S- AGIA, DIST- GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 OTHERS
REP. BY THE COMMISSIONER TO THE GOVT. OF ASSAM, HEALTH
DEPARTMENT DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF HEALTH SERVICES
HENGRABARI
GUWAHATI- 781036.

3:REGISTRAR CUM SECRETARY
ASSAM PHARMACY COUNCIL
SIX MILE
KHANAPARA
GUWAHATI- 781022.

4:THE ASSTT. DRUGS CONTROLLER
HENGRABARI
GUWAHATI- 781036. ASSAM

5:THE INSPECTOR OF DRUGS
GOALPARA
DIST- GOALPARA

P.O- GOALPARA
PIN-78310

Advocate for the Petitioner : D BARUAH

Advocate for the Respondent : SC, HEALTH

Linked Case : WP(C)/944/2023

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DIST- GOALPARA

P.O- GOALPARA

PIN-783101

Advocate for : D BARUAH

Advocate for : SC

HEALTH appearing for THE STATE OF ASSAM AND 4 OTHERS

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

19.12.2023

Heard Shri H. Das, learned counsel for the petitioner, who has also filed a connected I.A. for interim orders. Also heard Shri B. Gogoi, learned Standing Counsel for the Health & Family Welfare Department.

2. It is the case of the petitioner that a pharmacy license was issued in the year 2022 bearing Registration No. 9349. However, the grievance of the petitioner is with regard to non-renewal of the same.

3. Shri Das, learned counsel for the petitioner submits that though the initial registration was in the name of the father of the petitioner, late Gafur Ali, who has passed away in the year 2008, it was renewed from time to time and the pharmacy was being run by the petitioner and therefore non-renewal of the said license is arbitrary.

4. Shri Gogoi, learned Standing Counsel of the Department has however fairly submitted that there is no provision for transfer of a license even by way of inheritance. So far as the earlier renewals are concerned, it is submitted that since the authorities were not aware of the expiry of the original license holder, the same was renewed which would not act as a precedent. Shri Gogoi, learned Standing Counsel however submits that if the petitioner applies for registration in his own name, the same would be considered in accordance with law.

5. Shri Das, learned counsel for the petitioner submits that taking into consideration the long period of an experience of the petitioner in running the pharmacy without any blemish and also the fact that it is one of the main source of livelihood of the family, his application which may be filed pursuant to the direction of this Court may be duly considered. It is further contended that the petitioner himself has the qualification of a pharmacist.

6. In view of the above, both the writ petition as well as the I.A. stand disposed of by giving liberty to the petitioner to file necessary application for grant of fresh license / registration under the Drugs and Cosmetics Act, 1940 stating therein the attending facts and circumstances which have led to filing of the present application. On such submission, the authorities would consider the same and pass necessary Speaking Order within a period of 45 days from the date of receipt of such application.

7. A copy of the written instructions dated 30.11.2023 sent to the learned Standing Counsel, Health & Family Welfare Department which is placed before this Court is made a part of the records.

JUDGE

Comparing Assistant