

GAHC010260112022



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

Case No. : WP(C)/8153/2022

MD. AHMED HUSSAIN
S/O- HAJI MAKRAM ALI, PERMANENT RESIDENT OF VILL.- GANDHARBO
KHANI, P.O. MULLAGANJ, P.S. PATHARKANDI, DIST. KARIMGANJ, ASSAM,
PRESENTLY RESIDING AT T.M. GUEST HOUSE, HATIGAON ROAD, DISPUR,
GUWAHATI-781006.

VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
MUNICIPAL ADMINISTRATION DEPARTMENT, DISPUR, GUWAHATI-781006.

2:GUWAHATI MUNICIPAL CORPORATION
TO BE REPRESENTED BY COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION (GMC)
GUWAHATI-781001.

3:SENIOR MEDICAL OFFICER
GUWAHATI MUNICIPAL CORPORATION (GMC)
GUWAHATI-781001.

4:MD. FARUK AHMED KHAN
S/O- LATE HAJI ABDUL MANNAN
PERMANENT RESIDENT OF VILL.- GANDHARBO KHANI
P.O. MULLAGANJ
P.S. PATHARKANDI
DIST. KARIMGANJ
ASSAM PRESENTLY RESIDING AT HOUSE NO. 195
HATIGAON CHARIALI (NEAR VIDYASAGAR BOOK STALL)
P.O. HATIGAON
GUWAHATI-781038

Advocate for the Petitioner : MR. N H MAZARBHUIYAN

Advocate for the Respondent : SC, GMC

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

17.10.2023

Heard Mr. M.H. Saikia, learned counsel for the petitioner; Mr. G. Bakalial, learned Junior Government Advocate, Assam for the respondent no. 1; Mr. S. Bora, learned Standing Counsel, GMC for the respondent nos. 2 & 3; and Mr. R.A. Mazumdar, learned counsel for the respondent no. 4.

2. The instant writ petition under Article 226 of the Constitution of India is preferred seeking *inter alia* a direction to the respondent nos. 2 & 4 who are authorities in the Guwahati Municipal Corporation, to afford a personal hearing to the petitioner and the respondent no. 4 and to pass appropriate orders to renew the trade license of the petitioner and the respondent no. 4, issued vide Serial no. 1222754 & Registration no. GMC/DZ/26/HTL/202223/1222754, which was valid up-to 31.03.2023, jointly in their names.

3. The petitioner herein has projected that a guest house named M/s T.M. Guest House was being run by the petitioner and the respondent no. 4 jointly, after obtaining a trade license from the respondent GMC. Notwithstanding the prayer made in this writ petition, Mr. Saikia, learned counsel for the petitioner has submitted that by a Notice/Requisition bearing no. GHL/90/2022-23/165 dated 21.10.2022, the noticee, M/s T.M. Guest House was directed to submit self-attested copies of the documents, mentioned therein, and a reply as to why the trade license bearing Serial no. 1222754 & Registration no. GMC/DZ/26/HTL/202223/1222754 shall not be cancelled failing which, action would be initiated as per the provisions of the Guwahati Municipal Corporation Act, 1969, as amended, and Bye-laws and Regulations made therein. Mr. Saikia has also submitted that the respondent no. 3 had issued another

Notice/Requisition bearing no. GHL/90/2022-23/197 dated 01.12.2022 asking *inter alia* to show cause as to why the trade license bearing Serial no. 1222754 & Registration no. GMC/DZ/26/HTL/202223/1222754 valid up-to 31.03.2023, shall not be suspended or revoked as per the provisions of the Guwahati Municipal Corporation Act, 1969, as amended, and Bye-laws and Regulations made thereunder. By the Notice/Requisition dated 01.12.2022, the noticee, M/s T.M. Guest House was asked to submit a number of documents along with reply. It is his submission that in response to the Notices/Requisitions, dated 21.10.2022 & dated 01.12.2022, the petitioner as the noticee had already submitted a Reply to the Notices/Requisitions, on 07.12.2022. It is projected that the outcome of the exercise so undertaken by the said Notices/Requisitions, has not yet been communicated to the petitioner.

4. It is noticed that by the Notice/Requisition dated 21.10.2022, the noticee, M/s T.M. Guest House was directed to submit copies of the documents, mentioned therein, as well as a reply showing cause as to why the trade license, mentioned above, shall not be cancelled. It had been further informed in the event of failure to submit the same, action would be initiated as per the provisions of the Guwahati Municipal Corporation Act, 1969, as amended, and Bye-laws and Regulations made thereunder. The Notice/Requisition dated 21.10.2022 was followed by another Notice/Requisition dated 01.12.2022 whereby the noticee, M/s T.M. Guest House had been asked to show cause as to why the trade license should not be suspended or revoked. The noticee was also asked to submit self-attested copies of the documents, mentioned therein. It is also noticed that in response to the Notices/Requisitions, dated 21.10.2022 & dated 01.12.2022, the petitioner as the noticee had submitted a Reply before the respondent no. 3 on 07.12.2022.

5. Ordinarily, a writ petition seeking to invoke the discriminatory jurisdiction in order to assail a show cause notice is not entertained unless the same *inter alia* appears to have without jurisdiction. As the process initiated by the Notices/Requisitions, dated 21.10.2022 & dated 01.12.2022, which are in the form of show cause notices to which the petitioner as the noticee, has already submitted a Reply on 07.12.2022, this writ petition is disposed of observing that the competent authority in the GMC shall bring the process initiated by the

said two Notices/Requisitions to its logical conclusion in accordance with law and as per the provisions contained in the Guwahati Municipal Corporation Act, 1969, as amended, and Bye-laws and Regulations made thereunder by considering the Reply already submitted on 07.12.2022, within a period of 6 [six] weeks from today. The competent authority in the GMC while considering the case of the noticee/petitioner, if necessary, may afford personal hearing to the notice/petitioner and other stakeholders. It is further clarified that this Court has not made any observation as regards merits of the claim of any of the parties and the competent authority in the GMC shall take the final decision on its own merits and in accordance with law.

6. This order disposes of the writ petition.

JUDGE

Comparing Assistant