

GAHC010011322024



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

Case No. : WP(C)/313/2024

RAM CHANDRA SAHANI
S/O- LATE JALDHARI SAHANI, R/O- WARD NO.1 JAHAJGHAT, TEZPUR, PIN
CODE- 784001, DISTRICT- SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
THROUGH- THE COMMISSIONER AND SECRETARY, TO THE
GOVERNMENT OF ASSAM, FOODS, CIVIL SUPPLIES AND CONSUMER
AFFAIRS DEPARTMENT, DISPUR, GUWAHATI- 781006

2:THE DIRECTOR
FOODS
CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
BHANGAGARH
G.S.ROAD
GUWAHATI- 781005

3:THE DISTRICT COMMISSIONER
SONITPUR
TEZPUR
DISTRICT SONITPUR
ASSAM
PIN CODE- 784001

4:THE ADDITIONAL DISTRICT COMMISSIONER
FOODS
CIVIL SUPPLIES AND CONSUMER AFFAIRS
SONITPUR
TEZPUR
DISTRICT SONITPUR
ASSAM
PIN CODE 784001

5:THE DEPUTY DIRECTOR
FOODS
CIVIL SUPPLIES AND CONSUMER AFFAIRS
SONITPUR
TEZPUR
DISTRICT SONITPUR
ASSAM
PIN CODE 784001

6:THE INSPECTOR
FOODS
CIVIL SUPPLIES AND CONSUMER AFFAIRS
SONITPUR
TEZPUR
DISTRICT SONITPUR
ASSAM
PIN CODE 78400

Advocate for the Petitioner : MD. I HUSSAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 29.01.2024

Heard Mr. I. Hussain, learned counsel for the petitioner and Mr. K. Gogoi, learned counsel for the State respondents.

2. The petitioner's case is that the petitioner's fair price shop licence was suspended on 08.01.2020 and he was issued a show-cause notice on 27.01.2020. The petitioner, thereafter, submitted his reply. However, no decision was taken on the petitioner's reply and the respondent authorities continued to keep the petitioner's fair price shop licence under suspension in violation of Clause 15(2) of the Assam Public Distribution of Article Order, 1982.

3. The petitioner's counsel further submits that the petitioner was issued a further show-cause notice dated 10.08.2023 issued by the Addl. District Commissioner, Food, Civil Supplies & Consumer Affairs, Sonitpur, asking as to why legal action should not be taken against him in terms of the control order under the Essential Commodities Act, 1955, in view of illegalities committed by him in not maintaining his stock and price board, distribution of rice etc. He submits that a fair price shop licence cannot be kept in suspension beyond the period of 90 days, without issuance of mandatory notice under Clause 15(2) of the Assam Public Distribution of Article Order, 1982.

4. Mr. K. Gogoi, learned counsel for the State respondents, has submitted an Order under No. SSM/4.FP Shop/2020/203 dated 25.03.2023 issued by the Deputy Director, Food, Civil Supplies & Consumer Affairs, Sonitpur, which states that the petitioner's fair price shop licence has been cancelled in exercise of the power conferred under Clause 15(2) of the Assam Public Distribution of Article Order, 1982. He, accordingly, submits that the writ petition should be dismissed as infructuous.

5. Mr. I. Hussain, learned counsel for the petitioner, submits that if the petitioner's fair price shop had been cancelled in the year 2020, then what was the need for the State respondents to have issued a subsequent show-cause notice on 10.08.2023 to the petitioner, asking as to why legal action should not be taken against him. Petitioner's counsel however submits that as there is an order of cancellation of the petitioner's fair price shop in the year 2020, he will not be having the right to appeal under Clause 29(2) of the Assam Public Distribution of Article Order, 1982 due to the limitation period for filing an appeal. He submits that the liberty may be given to him to appeal the impugned

order dated 25.03.2020, as the same has been made known to him only today.

6. Mr. K. Gogoi, learned counsel for the respondent, submits that he has got no objection to the petitioner's counsel's prayer.

7. The Order No. SSM/4.FP Shop/2020/203 dated 25.03.2020 states as follows:-

“Perused the show cause reply submitted by Sri Ram Chandra Sahani, FP Shop dealer of Jahajglat, ward No. 1. Tezpur Town, Dtd. 04.02.2020 and the report submitted by Md. AU Ahmed, Inspector, FCS & CA, Tezpur Dtd. 17.03.2020, on the matter of inspection of FP Shop conducted on 17.01.2020 lead by the Assistant commissioner, Sonitpur, Tezpur on receipt of certain allegation against the dealer.

Where as it is observed that the reply to the show cause notice Issued vide No. SSM. 4/FP Shop/2020/57, Dtd. 27/01/2020 for violation of 14 and 18 of the Assam Public Distribution of article order 1982 and the terms & condition of the licence No. 4 & 7 is not satisfactory.

Whereas several allegation have been being received repeatedly against the dealer.

Hence, I am of the opinion that in exercise of the power conferred upon me under the close 15 (2) of the APDAD, 1982, I Sri B.C Bordoloi, the Deputy Director, FCS & CA, Sonitpur, Tezpur do hereby cancel the PDS licence (Retail) bearing No. SSM/27/TEZ/2011/126 granted to the FP Shop dealer, Sri Ram Chandra Sahani.

Further, the consumers (card holder) are tagged with nearest FP Shop

dealer Sri Jataindra Sing ward No. 1 Tezpur Town for smooth distribution of monthly allotted PDS/TPDS commodities under the NFSA, 2013, Until further order from this end. This order comes with immediate effect.”

8. The above facts show that the present writ petition has become infructuous due to cancelation of the petitioner's fair price shop licence.

9. However, in view of the consent of the parties, this writ petition is disposed of, with liberty being given to the petitioner to challenge the order dated 25.03.2020 under Clause 29(2) of the Assam Public Distribution of Article Order, 1982 before the Appellate Authority, within a period of 30 days from today.

9. In the event, the petitioner files an appeal before the Appellate Authority, it is hoped that the appeal shall be considered and disposed of expeditiously and preferably within a period 90 days from the date of receipt of the appeal, after the delay in filing the appeal is condoned.

10. The order dated 25.03.2020 is made a part of the record and marked as Annexure-X.

JUDGE

Comparing Assistant