

GAHC010035282022



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

Case No. : WP(C)/1409/2022

THE GUWAHATI WHOLESALE CONSUMERS CO OPERATIVE SOCIETY LTD
HAVING ITS REGD. OFFICE AT SAMABAI BHAWAN, A.T. ROAD, PALTAN
BAZAR, GUWAHATI, PIN-781001, DIST. KAMRUP (M), ASSAM, REP. BY ITS
CHIEF EXECUTIVE SRI GOPAL MAHANTA, R/O. HOUSE NO.6, KUNDIL
PATH, SANKARPUR BIRUBARI, P.O. GOPINATH NAGAR, GUWAHATI-16.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY PRINCIPAL SECRETARY, FOOD, CIVIL SUPPLIES AND CONSUMER
AFFAIRS DEPTT., GOVT. OF ASSAM, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECY.

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPTT.
GOVT. OF ASSAM
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-781006.

3:THE SECRETARY

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPTT.
GOVT. OF ASSAM
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-781006.

4:THE DIRECTOR

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
SETHI TRUST BUILDING
G.S. ROAD
BHANGAGARH
GUWAHATI-781005.

5:THE DEPUTY COMMISSIONER

KAMRUP (M) DISTRICT
PANBAZAR
GUWAHATI
PIN-781001.

6:THE DEPUTY DIRECTOR

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS CUM DRAWING AND
DISBURSING OFFICER
KAMRUP (M) DISTRICT
C/O. OFFICE OF THE DEPUTY COMMISSIONER
KAMRUP (M) DIST.
PANBAZAR
GUWAHATI-781001

Advocate for the Petitioner : MR. A SARMA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 11-03-2024

1. Heard Mr. A Sarma learned counsel for the petitioner and Mr. D Nath learned senior Government Advocate.
2. The petitioner is the Co-operative Society of the district of Kamrup under the Assam Co-operative Societies Act, 1949 and regulated by the aforesaid statute and the rules framed there

under. The petitioners' society is in the field of lifting and distribution of PDS articles under the Essential Commodities Act, 1955 and also the Assam Public Distribution of Articles Order, 1982.

3. The claim of the petitioners' is that they are not being paid their due against their commission due to them. According to the petitioners such amount is to be paid by the state from central assistance in terms of the National Food Securities Act, 2013.

4. The petitioners' claimed that similarly situated Co-operative societies in a similar situation of non-payment of commission for distributing food grains/rations, had approached this court by filing different writ petition, and this court by its common order passed in I.A(Civil) 139/2022 arising out of different writ petition, issued certain directions for payment of such outstanding dues. The petitioner submits that being similarly situated the petitioner is also entitled for similar relief.

5. Though Mr. D Nath learned senior government advocate on instructions has not disputed as regards execution of the work by the petitioner, however, he submits that exact amount due against the writ petitioner can be verified by the competent authorities only. He further submits that though the case of the petitioner is squarely covered by the earlier order that has been relied by the petitioner, however, at that point of time funds were available as reflected in paragraph 18 and 19 of the aforesaid order, but in the present case it may require some time

to arrange for money.

6. Considered the submissions advanced and also perused the order dated 13.01.2022 passed in I.A(Civil) No.139/2022. There is no dispute as regards the due claimed by the petitioner. The petitioner is also similarly situated to that of the petitioners in I.A(Civil) 139/2022. There is no dispute as regards entitlement of money to the petitioner and further in the considered opinion of this court the petitioners cannot be deprived of their rights for want of fund.

7. Accordingly, it is provided that the petitioner shall file a representation with their individual claims before the Commissioner of Food and Civil Supplies of Consumer Affairs and Legal Metrology (1) within a period of three weeks from today. Along with a copy of the order passed today. The Commissioner shall verify the individual claim and if it is found that the petitioner is entitled for such payment, the Commissioner shall do the needful for arranging the finance, if necessary, by involving the Finance Department and thereafter, do the needful for release of the admitted amount to the petitioner.

8. The entire exercise shall be carried out within a period of 4 (four) months from the date of receipt of a certified copy of this order and the claim submitted by the petitioner.

JUDGE