

GAHC010046742024



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

Case No. : WP(C)/1302/2024

MOHAMMAD ALI
S/O LATE HURMUZ ALI, VILLAGE- ROWKHOWA SALMARA, P.O CHUNARI
RIVER, DISTRICT- GOALPARA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT OF ASSAM, FOOD,
CIVIL SUPPLIES AND CONSUMER AFFAIRS, DISPUR, GUWAHATI- 781006

2:THE DIRECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM BHANGAGHAR
GUWAHATI -781005.

3:THE DISTRICT COMMISSIONER
GOALPARA
P.O. AND DISTRICT- GOALPARA
ASSAM PIN - 783121

4:THE DUPUTY DIRECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
GOALPARA
P.O AND DISTRICT- GOALPARA
ASSAM. PIN - 783121.

5:THE INSPECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
GOALPARA
P.O. AND DISTRICT- GOALPARA
ASSAM. PIN - 783121

6:THE SECRETARY
KOLSABHANGA ROWKHOWA GPSS LTD.
P.O. CHUNARI
DISTRICT- GOALPARA
ASSAM. PIN - 783129

7:HURMUZ ALI
S/O LATE KHUDU SHEIKH
VILLAGE- CHENGER ALGA CHAR
P.O. CHUNARI
DISTRICT- GOALPARA
ASSAM. PIN - 78312

Advocate for the Petitioner : MR. D A KAIYUM, MR. S H RAHMAN,MR. M S MONDAL

Advocate for the Respondent : GA, ASSAM, K ZAMAN (R-7),MR. A F N U MOLLAH(R-7)

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 21.08.2024

Heard Mr. D. A. Kayuim, learned counsel for the petitioner and Ms. U. Das, learned counsel for the respondent Nos. 1 to 5. Also heard Mr. A. F. N. U. Mollah, learned counsel for the respondent No. 7. No one appears for the respondent No. 6, though the Lawazima Court's order dated 23.07.2024 states that service in respect of the respondent No. 6 has been completed.

2. The petitioner's grievance in this writ petition is with regard to deletion of his name as the PDS licence holder in respect of licence No. 1630/2017.

3. The petitioner's case is that on the death of his father, the PDS licence which had been in the name of his father was transferred in the name of the petitioner, vide order dated 15.07.2017, having validity till 31.03.2018. The

petitioner's application for extension of the validity period was stuck with the authorities due to Covid-19 Pandemic. The petitioner thereafter came to learn that the PDS Licence No.PDA-1630/2017 had been given to the respondent no.7, on the alleged ground that the petitioner had expired. The petitioner's counsel submits that the PDS licence should be restored in the name of the petitioner and the transfer of the same to the respondent no.7 should be cancelled.

4. Counsel for the respondent No. 7 submits that the name of the respondent No. 7 is Hurmuz Ali, son of late Khudu Sheikh, resident of village Chenger Alga and that the respondent No. 7 is an agent/dealer of a fair price shop, vide licence No. PDS 677/1990 under M/s Kolsabhanga Rowkhowa Gaon Panchayat Samabai Samiti Ltd. He submits that the mistake in deleting the name of the petitioner, as a fair price shop dealer, occurred due to the petitioner's father having the same name as the respondent No. 7, having licence No.PDA 1630/1990 under the same Gaon Panchayat. He submits that the licence of the respondent No. 7 is in fact older than the one issued to the petitioner's father, though both were issued in the year 1990. Unfortunately, when the father of the petitioner died and the petitioner had made an application for transferring the father's licence to his name, the State respondents had mistakenly presumed that the respondent No. 7 had died and transferred the respondent No. 7's licence to the petitioner, without making any comment with regard to the licence number of the respondent No. 7, which was different than the licence number of the petitioner's father. He submits that due to the confusion in the names of the petitioner's father and the respondent No. 7, a mistake was committed by the State respondents. The respondent No. 7 filed WP(C) 6254/2021, which was closed on 20.06.2023, on becoming infructuous, as the licence of the

respondent No. 7 had been restored back to the respondent No. 7.

5. Ms. U. Das, learned counsel for the respondent No. 3 submits that the mistake committed in deleting the PDS licence of the petitioner, due to the confusion in the respondent No. 7 and the petitioner's father having the same name, has now been clarified and necessary correction would be made, so that the licence No. 1630/2017 is restored to the petitioner.

6. I have heard the learned counsels for the parties.

7. As can be seen from the averments made in the pleadings and the submissions made by the counsels for the parties, the deletion of the licence, which was in the petitioner's name, had occurred due to the name of the petitioner's deceased father and the respondent No. 7 being the same.

8. Para 7 of the affidavit-in-opposition filed by the respondent No. 3 is reproduced below:-

“7. That with regards to the statements made in paragraph no. 11 and 13 of the writ petition the deponent states that due to incorrect reporting, the Petitioner name has been deleted from the Stake Holders Identity Management System (SIMS) showing the Petitioner death. The Deputy Director submitted a report in this regards vide Memo no. GSG.2/2017/70 Dated-17/06/19 to the Director, FCS & CA, Assam for making change in SIMS database.

And in connection with W.P. (C) No. 6254/2021 (Hurmuj Ali v/s State of Assam) in the Hon'ble Gauhati High Court and in pursuant to the letter vide no. GSG.2/2017/70 dated-17/06/2019, the Director, FCS & CA, Assam has informed the matter to the Deputy Commissioner, Goalpara as below:-

"However, after migration to RCMS, now in RCMS database the name of Hurmuj Ali bearing license no. 677/90 is missing and whereas, the name

of Mohammad Ali with license PDS/1630/2017 exists in RCMS portal. no.

Therefore, to replace the name of Mohammad Ali with Hurmuj Ali, having license no. 677/90, a necessary action may be initiated now at District level under 'FPS modification tab', so a necessary approval at 'Director Login' in RCMS may be accorded".

Thereafter, the name of the petitioner namely Mohammad Ali, Son of Lt. Hurmuj Ali was replaced with Hurmuj Ali, son of Lt. Khudu Sheikh under Kolsabhanga Rowkhowa GPSS Ltd."

9. In view of the fact that the mistake committed by the State respondents has now come to light and as the State respondents have undertaken to restore the PDS licence No. 1630/2017 of the petitioner, the State respondents are directed to do the same within a period of three weeks, from the date of receipt of a certified copy of this order, without affecting the respondent No. 7.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant