

GAHC010065632024



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

Case No. : WP(C)/1805/2024

JOHIRUL ISLAM AND 8 ORS
S/O LT. ABDUL MANNAN
VILL- KAZAIKATA PART-V,
P.O. KAZAIKATA
P.S. BILASIPARA,
DIST. DHUBRI, ASSAM
PIN-783348

2: ROFIQUL ISLAM
S/O FAJAR ALI SARKAR
VILL- KATHALDI PART-II
P.O. BILASIPARA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

3: ABEDA KHATUN
W/O JAHAN UDDIN
VILL- KAZIKATA PART-V

P.O. KAZAIKATA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

4: ROMJAN ALI
S/O DASTAR ALI
VILL- KATHALDI PART-II
P.O. BILASIPARA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

5: ABDUS SATTAR MUCHALLI @ A. SATTAR
S/O LT. ABDUL AZIZ
VILL- KAZAIKATA PART-V
P.O. KAZAIKATA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

6: FULBAR ALI
S/O BELLAL ALI SHEIKH
VILL- KATHALDI PART-I
P.O. BILASIPARA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

7: RUKSHANA PARBIN
W/O AJIBAR RAHMAN
VILL- KATHALDI PART-II
P.O. BILASIPARA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

8: RUPBHANU BEWA
W/O LT. OMAR ALI MONDAL
VILL- KAZAIKATA PART-VI
P.O. KAZAIKATA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

9: NUR JAHAN BEGUM
W/O ABDUS SATTAR
VILL- KATHALDI PART-II

P.O. BILASIPARA
P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-78334

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
FOOD, PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS DEPARTMENT,
DISPUR, GUWAHATI-06

2:THE DIRECTOR OF FOOD

CIVIL SUPPLIES AND CONSUMER AFFAIRS

BHANGAGARH
GUWAHATI
ASSAM
PIN-781005

3:THE DISTRICT COMMISSIONER

DHUBRI
ASSAM
P.O.
P.S. AND DIST. DHUBRI
ASSAM

4:THE SUB-DIVISIONAL OFFICER (CIVIL)
BILASIPARA

P.O. AND P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348.

5:THE SUPERINTENDENT OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS

BILASIPARA

O/O THE SUB-DIVISIONAL OFFICER (CIVIL)
BILASIPARA

P.O. AND P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-783348

6:M/S KAZAIKATA SS. LTD.
REPRESENTED BY ITS SECRETARY
P.O. AND P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

03.04.2024

1. Heard Mr. M. Hussain, learned counsel appears for the petitioners, who submits that the respondent nos.4, 5 & 6 are contemplating to appoint new fair price shops in the area, in which the petitioners have their fair price shops. He submits that grant of licence for new fair price shops, by taking away ration card holders attached to the petitioners' shops, is in violation of Section 24 of the National Food Security Act, 2013 (hereinafter referred to as "2013 Act") and Clause 9 and 10 of the order dated 20.03.2015 issued by the Ministry of Consumer Affairs, Food and Public Distribution (Department of Food and Public Distribution).

2. The petitioners' counsel submits that the petitioners have filed a

representation dated 02.02.2024 before the respondent no.5. However, as the respondent no.5 has not taken a decision on the petitioners' representation, a direction may be issued to the respondent no.5 to take a decision on the petitioners' representation. He further submits that any process initiated by the respondent nos.4, 5 & 6, to grant licence for new fair price shops should be set aside.

3. Mr. M. Chetia, learned counsel for the respondent nos.1 to 5 submits that the petitioners have no *locus standi* to file the case, as no right of theirs has been violated as on date. He accordingly submits that the writ petition should be dismissed.

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

5. Section 24 of the 2013 Act provides that the State Government shall be responsible for implementation and monitoring of the schemes of various Ministries and Departments of the Central Government, in accordance with guidelines issued by the Central Government for each scheme and their own schemes, for ensuring food security to the targeted beneficiaries in their State.

6. Section 24(5)(c) provides that for efficient operation of Targeted Public Distribution System, every State Government shall establish institutionalised licensing arrangements for fair price shops in accordance with the relevant provisions of the Public Distribution System (Control) Order, 2001 made under the Essential Commodities Act, 1955 (10 of 1955), as amended from time to time.

7. Clause 9 of the Order dated 20.03.2025 provides that the State Government shall issue an order under Section 3 of the Essential Commodities Act, 1955 for regulating the sale and distribution of the essential commodities. Order 9 Rule 6 of the Targeted Public Distribution System (Control) Order, 2015 (hereinafter referred to as "2015 Order") provides that the State Government shall ensure that the number of ration card holders attached to a fair price shop are reasonable, the fair price shop is so located that the consumer or ration card holder does not have to face difficulty to reach the fair price shop and that proper coverage is ensured in hilly, desert, tribal and such other areas difficult to access.

8. Order 10 of the 2015 Order provides the manner in which the operation of the fair price shops are to be carried out. There is nothing in the writ petition to show that the grant of licence for opening new fair price shops is violative of any fundamental or legal right of the petitioners. Further, no licence has been granted to any new person for opening new fair price shops as on date and as such, this Court also finds that the present case is premature.

9. The 2013 Act and 2015 Order has been promulgated to ensure that the level of nutrition and standard of living is improved, by ensuring access to adequate quantity of quality food at affordable prices to people. The prayer of the petitioners, on the other hand, is basically on the premise that their businesses would suffer as their margins of profit would become lower than what they have been enjoying at present. The aim of granting licence to new fair price shops being in the interest of general public, this Court does not find

any ground at this stage to exercise it's discretion.

10. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant