

GAHC010082062024



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

Case No. : WP(C)/2623/2024

HARILAL DEBNATH AND 20 ORS
(PHARMACIST REGISTRATION NO. 11431)
S/O- LATE DINESH CH. DEBNATH,
R/O- VILL- TELI BASTI,
P.O.- TELI BASTI,
DIST.- HOJAI, ASSAM,
PIN -782435.

2: MAHIJ UDDIN SARKAR
(PHARMACIST REGISTRATION NO. 11204)
S/O LATE ABDUL AZIZ SARKAR

R/O- VILL- SAGUNBARI
MAZGAON (NIZ KATHIA TOLL)

P.O.- JUMURMUR
PIN NO.- 782427

DIST.- NAGAON
ASSAM.

3: PIJUSH DAS
(PHARMACIST REGISTRATION NO. 7685)
S/O- LATE DOBOKA TOWN
W. NO. 02

P.O. DOBOKA
DIST.- HOJAI
ASSAM

PIN- 782440

4: CHANDAN DEBNATH
(PHARMACIST REGISTRATION NO. 7942)

S/O- LATE PRAFULLA CH. DEBNATH

C/O- ASOMI MEDICAL

R/O- DHING

P.O.- DHING BAZAR

DIST.- NAGAON

ASSAM

PIN- 782123.

5: BABUL DEBNATH

(PHARMACIST REGISTRATION NO. 7950)

S/O- LATE PRAFULLA CH. DEBNATH

R/O- STATION ROAD

DHING

P.O.- DHING BAZAR

DIST.- NAGAON

ASSAM

PIN- 782123.

6: SANJOY BISWAKARMA

(PHARMACIST REGISTRATION NO. 8134)

S/O- LATE HARILAL BISWAKARMA

C/O- CENTRAL MEDICAL STORE

R/O- PANIGAON CHARIALI

P.O.- NAGAON

DIST.- NAGAON

ASSAM

PIN- 782003.

7: SANTI RANJAN DUTTA

(PHARMACIST REGISTRATION NO. 7729)

S/O- LATE J.K. DUTTA

R/O- ADP ROAD

P.O.- CHRISTIAN PATTY

P.O.- NAGAON
DIST.- NAGAON

ASSAM
PIN- 782001.

8: DIPANKAR SAHA
(PHARMACIST REGISTRATION NO. 11305)
S/O- KHIRODA RANJAN SAHA

R/O- BHURAGAON

P.O.- BHURAGAON

DIST.- MORIGAON
ASSAM

PIN- 782121.

9: BHUDEV GOSWAMI
(PHARMACIST REGISTRATION NO. 10156)
S/O- LATE RAMENDRA NARAYAN GOSWAMI

R/O- BHAKAT GAON
P.O.- DHING

DIST.- HOJAI
ASSAM

PIN NO.- 782123.

10: SHANKAR DEBNATH
(PHARMACIST REGISTRATION NO. 8538)
S/O- LATE J.C. DEBNATH

R/O- FOUZDARI PATTY
P.O.- NAGAON

DIST.- NAGAON
ASSAM

PIN- 782001.

11: AJIR UDDIN CHOUDHURY
(PHARMACIST REGISTRATION NO. 11527)
S/O- LATE HASIM ALI CHOUDHURY

C/O- M/S CHOUDHURY MEDICAL CENTRE

P.O.- JAMUNAMUKH

DIST.- HOJAI
PIN NO.- 782428

ASSAM.

12: SANJOY BOSE
(PHARMACIST REGISTRATION NO. 11253)
S/O- LATE NIRANJAR KR. BOSE

R/O- CHAPARMUKH TOWN

P.O.- CHAPARMUKH

DIST.- NAGAON
ASSAM

PIN- 782425.

13: AMIT KUMAR SAHA
(PHARMACIST REGISTRATION NO. 10119)
S/O- BIJOY RATNA SAHA

C/O M/S- JAGAT MEDICAL HALL

R/O- JAMUNAMUKH

P.O.- JAMUNAMUKH

DIST.- HOJAI
ASSAM

PIN- 782428.

14: SANJIB DAS
(PHARMACIST REGISTRATION NO. 7956)
S/O- JOGESH CH. DAS

R/O- DOBOKA TOWN
WARD NO. 2

P.O.- DOBOKA

DIST.- HOJAI
ASSAM

PIN- 782440.

15: DIBYENDU PAUL
(PHARMACIST REGISTRATION NO. 7660)
S/O- LATE JITENDRA KR. PAUL

C/O- MEDICINE HOUSE

R/O- DIPHU
P.O.- DIPHU

DIST.- KARBI ANGLONG
ASSAM

PIN- 782460.

16: SUKUMAR CHAKRABORTY
(PHARMACIST REGISTRATION NO. 11304)
S/O- LATE RAKHAL CHAKRABORTY

R/O- HAMREN
P.O.- HAMREN

DIST.- WEST KARBI ANGLONG
ASSAM

PIN- 782486.

17: SUBHASH CH. PAUL
(PHARMACIST REGISTRATION NO. 7659)
S/O- LATE SATISH CH. PAUL

R/O- JHILPAR
DIPHU
P.O.- DIPHU

DIST.- KARBI ANGLONG
ASSAM

PIN- 782460.

18: HITENDRA KUMAR DEY
(PHARMACIST REGISTRATION NO. 9526)
S/O- LATE HARI SADHAN DEY

R/O- A.D.P. ROAD
CHRISTIANPATTY

P.O.- NAGAON
DIST.- NAGAON

ASSAM
PIN- 782001.

19: LALIT KUMAR AGARWALA
(PHARMACIST REGISTRATION NO. 9838)
S/O- KISHAN LAL AGARWALA

R/O- WARD NO. 7
BILASIPARA

P.O.- BILASIPARA
DIST.- DHUBRI

ASSAM
PIN- 783348.

20: NIKHIL PAUL
(PHARMACIST REGISTRATION NO. 7315)
S/O- LATE NARAYAN CH. PAUL

R/O- STATION ROAD
RANGIA

P.O.- RANGIA
DIST.- KAMRUP

ASSAM
PIN- 781365.

21: SYED AFZAL HUSSAIN
(PHARMACIST REGISTRATION NO. 9671)
S/O- LATE SYED NURUDDIN AHMED

R/O- RANGIA TINIALI
WARD NO. 9

P.O.- RANGIA
DIST.- KAMRUP

ASSAM
PIN- 781354

VERSUS

THE ASSAM PHARMACY COUNCIL AND 5 ORS
A COUNCIL CONSTITUTED UNDER THE PROVISIONS OF SEC. 19 OF THE
PHARMACY ACT, 1948
AND HAVING ITS OFFICE SITUATED IN THE OFFICE OF THE DIRECTOR OF
HEALTH SERVICES CAMPUS,
PHARMACY BHAWAN, HENGRABARI,
GUWAHATI- 781036,
IN THE DISTRICT OF KAMRUP(M), ASSAM.

2:THE EXECUTIVE COMMITTEE
A COMMITTEE CONSTITUTED UNDER SEC. 27 OF THE PHARMACY ACT
1948
AND REPRESENTED BY THE PRESIDENT HAVING ITS OFFICE AT OFFICE
OF THE DIRECTOR OF HEALTH SERVICES CAMPUS
PHARMACY BHAWAN
HENGRABARI
GUWAHATI- 781036
IN THE DISTRICT OF KAMRUP(M)
ASSAM.

3:THE REGISTRAR CUM SECRETARY
ASSAM PHARMACY COUNCIL
HENGRABARI
PHARMACY BHAWAN

GUWAHATI- 781036
IN THE DISTRICT OF KAMRUP(M)
ASSAM.

4:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

HEALTH AND FAMILY WELFARE DEPARTMENT

DISPUR
GUWAHATI- 781006.

5:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI- 781006.

6:THE DIRECTOR
HEALTH SERVICES
HENGRABARI
GUWAHATI- 781036

IN THE DISTRICT OF KAMRUP(M)

ASSAM

Advocate for the Petitioner : MR S SARMA

Advocate for the Respondent : SC, HEALTH

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

20.05.2024

- 1.** Heard Mr. S. Sarma, learned counsel for the petitioners and Mr. D. Upamanyu, learned Standing Counsel, Health Department.
- 2.** Having regard to the projection made by the petitioners and the fact that this is a covered case, the writ petition is taken up for disposal at the Motion stage with the consent of the parties.
- 3.** The petitioners, who are in 21 in numbers have filed the instant writ petition challenging the cancellation notice issued to each of them under Section 36(1)(i) of the Pharmacy Act, 1948 (Pharmacy Act). According to the petitioners for failure on their part to submit relevant documents justifying their qualification and their eligibility to be registered as Pharmacist, the cancellation notice was issued after a decision was taken to that effect by the Executive Committee in it's resolution (6) dated 17.06.2022 and thereafter confirmed by the State Counsel under Section 36(3) of the Pharmacy Act on 20.01.2023.
- 4.** Mr. S. Sarma, the learned counsel for the petitioners submits that the date on which the licence of the petitioners were cancelled are as follows :
 - (a) The licence of the petitioner nos.1, 2, 4, 5, 6, 11, 15, 16 & 18 were

cancelled on 01.06.2023, while the licence of the petitioner nos.3, 14 & 19 were cancelled on 29.05.2023.

(b) The licence of the petitioner nos.7 & 10 were cancelled on 09.06.2023 and that of the petitioner no.8 on 28.04.2023.

(c) The licence of the petitioner no.9 was cancelled on 12.06.2023 and that of the petitioner no.13 on 02.06.2023.

(d) The licence of the petitioner nos.12, 20 & 21 were cancelled on 31.05.2023.

(e) The licence of the petitioner no.17 was cancelled on 11.06.2023.

5. The learned counsel submits that since the petitioners were not furnished with a copy of the Resolution taken by the Executive Committee, they are not in a position to file an appeal in terms of Section 36(4) of the Pharmacy Act. This Court in a case of similar nature in WP(C) No.1543/2024 upon having regard to the direction passed by the Writ Appellate Court vide order dated 24.11.2023 in WA No.413/2023 disposed of the said writ petition vide order dated 18.03.2024 by allowing the petitioners therein to file an appeal before the respondent authority concerned after being given a copy of the resolution passed by the Executive Committee. The learned counsel for the petitioners therefore submits that as similar direction can be passed in the instant case.

6. Mr. D. Upamanyu, learned Standing Counsel, Health Department agrees to the submission made by the learned counsel for the petitioners.

7. In view of the above, since an alternative remedy by way of an Appeal under Section 36(4) of the Pharmacy Act is available, the instant writ petition is disposed of with the following directions :-

I. The petitioners within a period of ten days from today shall submit a copy of the order passed by this Court today along with a copy of the writ petition to

the respondent No.1.

II. The respondent No. 1 within a period of two weeks thereafter shall provide a copy of the Executive Committee Resolution to the petitioners, whereby the decision to remove the name of the petitioners from the roll of the council was taken and a copy of the decision/confirmation made by the State Council.

III. Thereafter, on receipt of the copies of the resolution made by the Executive Committee and the confirmation made by the State Council, the petitioners shall be at liberty to approach the Appellate Authority within the prescribed period of time under Section 36(4) of the Act, 1948.

IV. Till the Resolution of the Executive Committee and confirmation by the State Council is provided to the petitioners, the orders of cancellation of licences of the petitioners shall remain suspended. The above is also subject to the condition that the petitioners should approach the respondent No.1 for furnishing copies of the Resolution of the Executive Committee and confirmation made by the State Council, within a period of 10(ten) days from today.

JUDGE

Comparing Assistant