

GAHC010091562024



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

Case No. : WP(C)/2436/2024

M/S NIZ DHING SAMABAI SAMITY LTD.
A COOPERATIVE SOCIETY HAVING ITS OFFICE AT VILLAGE BILOTIA
DHING.
P.O AND P.S- DHING,
DIST- NAGAON, ASSAM,

REP. BY ITS SECRETARY,
AINUL HOQUE CHOUDHURY , AGE 41 YRS,
S/O- LATE ISA HOQUE ALI,
VILL- KHOIRAMARI,
P.S-DHING, DIST-NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF
FOOD, PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS , DISPUR,
GUWAHATI-06

2:THE COMMISSIONER
FOOD CIVIL SUPPLIES
CONSUMER AFFAIRS AND LEGAL METROLOGY

R.K MISSION ROAD
ULUBARI-07

KAMRUP(M)
ASSAM.

3:THE DISTRICT COMMISSIONER
NAGAON
(FOOD

PUBLIC DISTRIBUTION AND
CONSUMER AFFAIRS BRANCH)

PIN-782001

4:THE DEPUTY DIRECTOR
FOOD
PUBLIC DISTRIBUTION AND
CONSUMER AFFAIRS NAGAON
ASSAM

PIN-782001

5:THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES
NAGAON
ASSAM

PIN-78200

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 13-05-2024

Heard Mr. A.I. Uddin, learned counsel for the petitioner and Ms. U. Das, learned Additional Senior Government Advocate, Assam for all the respondents.

2. Having regard to the nature of the case projected by the petitioner, the writ petition is taken up for disposal at the motion stage.

3. It is the case of the petitioner that the sub-wholesale license bearing No. 642(s/w)/84 issued to him for running the fair price shop under the name and style of M/S Niz Dhing Samabai Sammittee Limited, was suspended by the Deputy Director FPD & CA, Nagaon vide order dated 31.08.2023. Despite a

lapse of more than 150 (One Hundred Fifty) days, no show-cause notice was given to the petitioner and the license had been kept under prolonged suspension. Meanwhile, the entire allotment meant for the petitioner was tagged along with M/S Batadrava GPSS Limited. Subsequently, on 29.01.2024, after a lapse of 152 (One Hundred Fifty Two) days, a show-cause notice was given to the petitioner and that the petitioner had also filed a reply to the show-cause notice. Despite the same since the petitioner has been kept under prolonged suspension, he is before this Court.

4. Mr. A.I. Uddin, learned counsel for the petitioner has drawn the attention of this Court to a similar order passed by the Coordinate Bench of this Court on 05.02.2024 in WP(C) No. 2971/2023 wherein the Court was of the view that the suspension order in view of the stipulation in Clause 15(2) of *the Assam Public Distribution of Articles Order, 1982*, cannot survive beyond 90 (Ninety) days from the date of issuance of the same without issuance of a show-cause notice. The show-cause notice in the instant case having been issued after about 152 (One Hundred Fifty Two) days from the date of suspension of the license, the impugned suspension order should be interfered by this Court and the petitioner be allowed to operate the PDS.

5. Upon perusal of the materials available on records and upon hearing the parties it appears that the order dated 31.08.2023 suspending the license of the petitioner without a show-cause notice and exceeding 90 (Ninety) days cannot be sustained in view of the specific provisions and accordingly, the same stands interfered with.

6. Since the petitioner contends that he has submitted a reply to the show-cause notice issued on 29.01.2024, the respondent authorities shall consider the same and pass necessary orders in accordance with law as early as possible and

preferably within a period of 4 (Four) weeks from the date of receipt of the certified copy of this order.

Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant