

GAHC010095852024



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

Case No. : WP(C)/2540/2024

BINOD BORO AND 2 ORS
S/O- BHABESH BORO, R/O- VILLAGE- GAHEKHANDA, P.O. HOWLY, P.S.
GOBARDHANA, DISTRICT- BAKSA, ASSAM, PIN- 781316

2: ABDUL SALAM
S/O- MAHIR UDDIM
R/O- VILLAGE- BUNMAJA GAON
P.S. GOBARDHANA
P.O. BELASHIPARA BAZAR
ASSAM
DISTRICT- BAKSA (BTAD)
PIN- 781315

3: SMT. TUMPA SAHA
W/O- NARAYAN SAHA
R/O- VILLAGE- KAJIAMATI
P.O. MAINAMATA
P.S. GOBARDHANA
DISTRICT- BAKSA
ASSAM
PIN- 78131

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, FOOD, CIVIL SUPPLIES AND CONSUMER
AFFAIRS DEPARTMENT, DISPUR, GUWAHATI- 781006

2: THE DIRECTOR OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
GOVERNMENT OF ASSAM
ULUBARI
GUWAHATI- 781005

3:THE ASSISTANT DIRECTOR
FOOD
PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS
SALBARI
DISTRICT- BAKSA
ASSAM

4:THE DEPUTY COMMISSIONER
DISTRICT- BAKSA
ASSAM

5:THE SUPERINTENDENT
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
SALBARI
DISTRICT- BAKSA
ASSAM

6:M/S. DAKHIN BIJNI G.P.S.S. LTD.
REPRESENTED BY THE SECRETARY
ANANDA BAZAR
DISTRICT- BAKSA
ASSAM

7:THE BODOLAND TERRITORIAL AUTONOMOUS DISTRICT COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR

8:THE COUNCIL HEAD OF THE DEPARTMENT
FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
BTC
KOKRAJHA

Advocate for the Petitioner : MR. H. BURAGOHAIN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

15.05.2024

1. Heard Mr. H. Buragohain, learned counsel for the petitioner. Also heard Mr.

A. Sarma, learned counsel for the respondent no.6 and Caviator; Ms. R.B. Bora, learned Standing Counsel, BTC for the respondent nos.3, 5, 7 & 8 and Ms. U. Das, learned Additional Senior Government Advocate for the respondent nos.1, 2 & 4.

2. Having regard to the nature of the case projected by the petitioners, the writ petition is taken up for disposal at the Motion stage itself with the consent of the parties.

3. It is the case of the petitioner that they are the Fair Price Shop dealers under the respondent no.6. Due to certain difficulty faced by the respondent no.6 to transport the food-grains from the FCI go-down to their own go-downs, five Fair Price Shop owners including the three petitioners were permitted to carry the food-grains directly from the FCI go-down to their own go-downs for further distribution under 122 other Fair Price Shops and ultimately, to the beneficiaries concerned, vide the order dated 25.02.2020 (Annexure-5). Pursuant to the passing of the said order by the Council Head of Department, Food, Civil Supplies & Consumer Affairs, BTC, Kokrajhar, the petitioners entered into an agreement with the respondent no.6, wherein there was a stipulation that the petitioners will be responsible for the damages or loss of rice, bear the cost of transportation amongst others. It further provided that the agreement was valid for a period of one year and the same was renewable upon execution of a fresh agreement. Since then the petitioners have been lifting the food-grains from the FCI go-down directly till the passing of the impugned communication dated 30.04.2024 by the I/c Assistant Director, Food Public Distribution & Consumer Affairs, Salbari, District-Baksa informing the respondent

no.6 that in pursuance to the Government letter under reference, the respondent no.6 was allowed to lift the entire quota of PMGKAY rice under NFSA allotted to the Samabai Samitee.

4. It is the case of the petitioners that the agreement was signed for a period of one year on 18.10.2023 and barely after six months of the said agreement, the impugned letter allowing the respondent no.6 to lift the food-grains directly from the FCI go-down has been abruptly issued. On the other hand, the petitioners in view of the order dated 25.02.2020 by which they were allowed to lift the food-grains directly from the FCI go-down have made huge investments in hiring go-downs and also making necessary arrangement for transportation of the food-grains, the impugned communication dated 30.04.2024 has come as a big surprise and therefore, they are before this Court seeking for a direction to the respondent authorities concerned to allow them to continue lifting the food-grains in terms of the order dated 25.02.2020.

5. Mr. A. Sarma, learned counsel for the respondent no.6 and Caviator submits that the arrangement made vide order date 25.02.2020 is only a temporary arrangement due to the difficulties faced by the respondent no.6 at the relevant time. The arrangement being temporary, the petitioners do not have any indefeasible right to continue with the temporary arrangement. The impugned letter dated 30.04.2024 has not been issued abruptly as submitted by the counsel for the petitioners because there has been several communications between the respondent no.6 and the respondent authorities concerned in this regard. According to the respondent no.6, they were having some difficulties in carrying the food-grains from the FCI go-down earlier but no

longer now. Therefore they have requested the respondent authorities concerned to allow them to carry the food-grains from the FCI go-down. Accordingly upon considering the same, the communication dated 30.04.2024 has been issued in terms of the decision taken by the Government and therefore no interference is called for.

6. Upon hearing the learned counsel for the parties this Court is of the considered view that instead of keeping the writ petition pending before this Court, the petitioners should approach the respondent authorities concerned by submitting a concise representation stating the difficulties they are facing in view of the impugned communication dated 30.04.2024 and also in view of the agreement signed between them and the respondent no.6 and the respondent authorities should take a decision in the matter within a time frame.

7. The writ petition is therefore disposed of by directing the petitioners to submit a concise representation before the respondent no.1 within a period of seven days from today and the respondent no.1 upon receipt of the same shall consider the representation and dispose of the same on or before 30.05.2024. Before taking a decision in the matter, the respondent no.1 will be at liberty to hear the petitioners as well as the respondent no.6 and the Departmental authorities as may be found necessary.

JUDGE

Comparing Assistant