

GAHC010112342020



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

**Case No. : WP(C)/3365/2020**

RANJIT BORAH  
S/O. LT. NIRMAL CHANDRA BORAH, VILL. AND P.O. GAURISAGAR, DIST.  
SIVASAGAR, ASSAM, PIN-785640.

VERSUS

THE STATE OF ASSAM AND 2 ORS.  
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, FOOD CIVIL  
SUPPLY AND CONSUMER AFFAIRS DEPTT., DISPUR, GUWAHATI-781006,  
ASSAM.

2:THE DY. COMMISSIONER

SIVASAGAR  
P.O. SIVASAGAR  
DIST. SIVASAGAR  
ASSAM  
PIN-785640.

3:THE DY. DIRECTOR OF FOOD  
CIVIL SUPPLY AND CONSUMER AFFAIRS

SIVASAGAR  
P.O. SIVASAGAR  
DIST. SIVASAGAR  
ASSAM  
PIN-785640.

4:KIRAN BORA@ KIRAN CHANDRA BORAH  
S/O SRI MOHAN BORA @ SRI MOHAN CHANDRA BORAH  
R/O- GOURISAGAR  
MOUZA- MORA BAZAR. P.O AND P.S GOURISAGAR

DIST- SIBSAGAR  
ASSAM. PIN 785664

**Advocate for the Petitioner** : MR. P BORA, MR. A CHETIA, MS. S. TODI

**Advocate for the Respondent** : GA, ASSAM,

**BEFORE**  
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

**ORDER**

**24.10.2024**

Heard Mr. P. Bora, learned Sr. Counsel for the petitioner assisted by Ms. K. Bhattacharya. Also heard Mr. M. Chetia, learned counsel for the respondent Nos. 1, 2 & 3.

2. The writ petitioner Sri Ranjit Bora was granted a licence bearing No.S.V.S.L.52/2016/209 for opening of a fair price shop under the Morabazar Cooperative Society Sivasagar, vide order dated 12.03.2018. The order dated 12.03.2018 states that issuance of the license was as per the permission granted in Book No.41 of the letter bearing Memo No. No.S.V.S.L.52/2016 dated 16.02.2018, in place of the cancelled licence of the fair price shop of Sri Kiran Bora. In the meantime, Sri Kiran Bora instituted WP(C) No.2176/2017 against the cancellation of his license and by the judgment dated 11.02.2020, this Court took a view that the cancellation of the license of Sri Kiran Bora was not as per law. Accordingly, a direction was issued to the respondent authorities to restore the licence in favour of Sri Kiran Bora. In compliance with the said direction passed in the impugned judgment dated 11.02.2020 in WP(C) No.2176/2017, the impugned order dated 29.07.2020 was issued by the In-charge Deputy Director Food, Civil Supplies and Consumer affairs, Sivasagar, by which the

license bearing No. 16/2004/Pt/54 granted under the Assam Public Distribution of Articles Order 1982 which stood in the name of Sri Kiran Bora, was restored. By the same order it was also provided that the license No.S.V.S.L.52/2016/209 granted in favour of the writ petitioner Sri Ranjit Bora stood cancelled.

3. Being aggrieved by the cancellation of the license made in favour of the petitioner, the petitioner has approached this Court.

4. The petitioner's counsel submits that the petitioner should have been made a party in WP(C) 2176/2017, as the cancellation of his licence was made due the order passed therein. However, the petitioner was not made a party therein. He further submits that as the petitioner had been granted a licence to open a fair price shop in place of Sri Kiran Bora, whose licence had been cancelled, the subsequent cancellation of the licence of the petitioner could have been made, only after issuing notice to the petitioner. However, no notice having been issued to the petitioner prior to the cancellation of the petitioner's licence to run a fair price shop, the impugned order dated 29.07.2020, in so far as it cancelled the petitioner's licence, should be set aside. He further submits that though the petitioner cannot have any grievance against Sri Kiran Bora, the State respondents should have allowed the running of two fair price shops, one by Sri Kiran Bora and another by the petitioner.

5. Mr. M. Chetia, learned counsel for the respondent Nos. 1, 2 & 3 submits that the licence granted to the petitioner for running a fair price shop had only been made in place of the licence of Sri Kiran Bora being cancelled. As this Court in its judgment dated 11.02.2020 passed in WP(C) 2176/2017 had directed the respondent authorities to restore the licence of Sri Kiran Bora, the

direct result of the same required the licence of the petitioner herein to be cancelled. Further, in terms of the policy of the Government, two licences cannot exist simultaneously for the same population due to the following reasons:-

*“(a) No. of Priority Household Ration Card- 72 nos. with a population of 305 nos.*

*(b) No. AAY Ration Cards- 17 nos. with population of 38 Total Ration card 89 nos. with a population of 343 nos.*

*For the above mentioned population, the Fair Price Shop is getting allocation of only 21.20 Quintals of Rice under NFSA, 2013 at present and the dealer will get approximately Rs. 2122/- as commission from the Government per month as the rice is free of cost. As such it will not be economically viable if two Fair Price Shop co-exist for such a minimum population.”*

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

7. The order dated 12.03.2018, by which the petitioner was granted his licence to run a fair price shop is reproduced hereinbelow as follows:

**"ORDER**

*As per the permission granted as per Book no. 41 of the letter bearing memo no. S.V.S.L.52/2016 dated 16/02/2018 in place of the cancelled licence of fair price shop of Sri Kiron Borah, licence is hereby granted to Sri Ranjit Borah vide the licence bearing no. S.V.S.L.52/2016/209 for opening of fair price shop under the Morabazar Co operative Society, Sivasagar.*

*The order bearing no. S.V.S.L.52/2016/13 dated 24.10.2016 whereby the ration card holders attached with the shop of Sri Kiron Bora were attached with the shop of Sri Jibon Jyoti Nath is hereby withdrawn.”*

8. The operative portion of the order dated 11.02.2020 passed in WP(C) No.2176/2017, by which this Court had restored the licence of Sri Kiran Bora, is reproduced hereinbelow as follows:

*“From the aforesaid discussion, in my considered opinion as the show-cause notice was issued with the intent to take necessary action on the petitioner because of the reasons mentioned in the inspection report, the said report forms a vital document from the point of view of the petitioner. Non submission of the same amounts to violation of the principle of natural justice. For the said reason, I hold that the procedure adopted before cancellation of the license by the impugned order is improper and as a consequence, the impugned cancellation order dated 03.12.2016 is set aside and quashed.*

*The petitioner on submission of the copy of this order to the respondent No. 3, necessary direction shall be issued to the competent officials to restore the license which was cancelled forthwith. Further explanation on the inspection report dated 08.10.2016, in my opinion is not required considering the span of time which is more than 3 years. But it is directed that the petitioner shall abide by the terms of the Order, 1982 and the License. The whole exercise shall be completed within a period of 30 days from the date of receipt of the certified copy of the order passed in this writ petition today.*

*Accordingly, this writ petition stands disposed of.”*

9. The impugned order dated 29.07.2020, by which the licence of Sri Kiran Bora was restored, which consequently resulted in the cancellation of the licence of the petitioner as conclusion, is reproduced hereinbelow as follows:

**“ORDER**

*In compliance of the Oder passed by the Hon'ble Gauhati High Court dated 11th February 2020 in connection with the writ petition No. WP(C) No. 2176/2017 filed by Sri Kiran Ch. Bora against cancellation Order No. SVSL.52/2016/12 dated 24th October 2019 of his retail license bearing No. SVSL. 16/2004/Pt/54 granted under The Assam Public Distribution of Articles Order, 1982 passed by the Deputy Director, Food, Civil Supplies & Consumer Affairs, Sivasagar, the above retail license stands in the name of Sri Kiran Ch. Borah is hereby restored cancelling the retail license stands in the name of present FPS dealer Sri Ranjit Borah bearing license number SVSL. 52/2016/209 appointed against Sri Kiran Ch. Bora.*

*Further, Sri Kiran Ch. Bora is directed to abide by the terms & conditions of the licence under different Clauses of the Assam Public Distribution of Articles Order, 1982 & It's different Clauses as well as the clauses under The Targeted Public Distribution System (Control) Order 2015 pertaining to the FP shop dealer.*

*This order will come into force with immediate effect.”*

10. As can be seen from the above orders, it is clear that the petitioner had been granted his licence, only to replace the licence of Sri Kiran Bora whose licence had been cancelled. Further, the ration card holders attached with Sri Kiran Bora's fair price shop was also consequently attached with the fair price shop to be opened by the petitioner. This Court in WP(C) No.2176/2017 having restored the licence of Sri Kiran Bora, the natural conclusion was that the status quo ante would have to be restored. As such, not only was the licence of Sri Kiran Bora restored, but also the ration card holders, who were attached with the fair price shop of Sri Kiran Bora had to be reverted back to Sri Kiran Bora. The licence given to the petitioner being a consequential action taken against Sri Kiran Bora, there is no infirmity with the consequential decision taken by the authorities in cancelling the petitioner's licence, when the licence of Sri Kiran Bora was restored by this Court.

11. The order dated 11.02.2020 passed in WP(C) No.2176/2017, which restored the licence of Sri Kiran Bora, has also attained finality as on date. No challenge has been made to the same by any person, including the petitioner herein.

12. With regard to the contention of the petitioner's counsel that no notice was given to the petitioner prior to cancellation of the petitioner's licence, this Court is of the view that the same cannot be said to cause any prejudice to the petitioner, inasmuch as, the grant of the licence to the petitioner was a consequence of the cancellation of the licence of Sri Kiran Bora. As such, the decision to restore the licence of Sri Kiran Bora would naturally/automatically decide the fate of the licence of the petitioner. Even if a notice has been issued to the petitioner, it is clear that there could not be any dispute with regard to

the fact that the validity of the petitioner's licence would always depend upon whether the challenge made by Sri Kiran Bora, to the cancellation of his licence, succeeded in this Court or not. As such, this Court is of the view that the prayer of the petitioner cannot be acceded to, in view of the fact that the initial grant of a licence was only due to the cancellation of the licence of Sri Kiran Bora, which has been restored by this Court and which has attained finality as on date.

13. In view of the reasons stated above, the writ petition is dismissed.

14. The interim order, passed earlier, is accordingly vacated.

**JUDGE**

**Comparing Assistant**