

GAHC010123922024



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

**Case No. : WP(C)/3977/2024**

MRINAL KANTI CHAKRABORTY AND 18 ORS  
(PHARMACIST REGISTRATION NO.7514)  
S/O- LATE NALINI KANTO CHAKRABORTY  
R/O- VILL AND P.O.-LAKHIPUR,  
DIST-GOALPARA, ASSAM  
PIN NO.-783129.

2: BINAY RAKSHIT  
(PHARMACIST REGISTRATION NO.9432)  
S/O- LATE BIMAN BEHARI RAKSHIT  
R/O-VILL AND P.O.-MAZBAT  
UDALGURI  
DIST.-UDALGURI

PIN NO.-784507  
B.T.R.  
ASSAM

3: SMT. SASWATI DAS  
(PHARMACIST REGISTRATION NO.10532)  
S/O- PUNCH KARI DAS  
R/O-VILL AND P.O.-MAZBAT  
UDALGURI  
DIST.-UDALGURI  
PIN NO.-784507  
B.T.R.  
ASSAM

4: SANJAY KUMAR SHARMA  
(PHARMACIST REGISTRATION NO.8658)  
S/O- RAMAGYA SHARMA  
C/O- SARADA MEDICAL STORES  
R/O-VILL AND P.O.-KAKOPATHER

DIST.-TINSUKIA  
ASSAM  
PIN NO.-786152

5: BIPLAB MAZUMDER  
(PHARMACIST REGISTRATION NO.7849)  
S/O- LATE HARENDRA MAZUMDER  
R/O-LNB ROAD  
SRIPURIA

P.O.-TINSUKIA  
DIST.-TINSUKIA  
ASSAM  
PIN NO.-786145

6: RATAN BHOWMICK  
(PHARMACIST REGISTRATION NO.8432)  
S/O- LATE KUMUD BEHARI BHOWMICK  
R/O- SREEPURIA PATHAR  
ANANDA NAGAR  
P.O. AND DIST.-TINSUKIA  
PIN NO.-786125  
ASSAM

7: PHANINDRA NATH HATIKAKOTI  
(PHARMACIST REGISTRATION NO.9570)  
S/O- LATE DR. M.N. HATIKAKOTI

R/O-COLLEGE ROAD  
P.O.-TINSUKIA

DIST.-TINSUKIA  
ASSAM  
PIN NO.-786125

8: AMIT DAS  
(PHARMACIST REGISTRATION NO.8765)  
S/O- SRI AJIT KUMAR DAS

R/O-LUMDING TOWN  
P.O.-LUMDING  
DIST.-HOJAI  
ASSAM  
PIN NO.-782447

9: GOUTAM DEY  
(PHARMACIST REGISTRATION NO.8710)  
S/O- LT. LATE AMAL CH. DEY

R/O-BABU PATTY  
WARD NO.12

P.O.-LUMDING

DIST.-HOJAI  
ASSAM  
PIN NO.-782447

10: SANKAR BHATTACHARJEE  
(PHARMACIST REGISTRATION NO.7646)  
S/O- LATE RAM KISHORE BHATTACHARJEE  
R/O-THANA ROAD  
LUMDING

DIST.-HOJAI  
ASSAM  
PIN NO.-782447.

11: PARESH CHANDRA ACHARJEE  
(PHARMACIST REGISTRATION NO.4731)  
S/O- LATE CHITTA RANJAN ACHARJEE  
C/O-KAMAKHYA PHARMACY  
R/O- JYOTI CINEMA ROAD  
LUMDING

DIST.-HOJAI  
PIN NO.-782447  
ASSAM

12: SANJAY KUMAR SHILL  
(PHARMACIST REGISTRATION NO.11697)  
S/O- SACHINDRA KUMAR SHILL  
R/O- LANKA  
N. AREA NETAJI ROAD  
WARD NO.09. DIST.-HOJAI  
ASSAM  
PIN NO.-782446

13: INDU BHOUSAN ROY  
(PHARMACIST REGISTRATION NO.7869)  
S/O- LATE JOGNESWAR ROY  
R/O-DOOMDOOMA  
G.N.B. ROAD

DIST.-TINSUKIA  
PIN NO.-786151  
ASSAM

14: MALAY TARAN  
(PHARMACIST REGISTRATION NO.9200)  
S/O- LATE BIRENDRA CHANDRA TARAN  
R/O- VILL- DURGABARI

P.O.-TINSUKIA  
DIST.-TINSUKIA  
ASSAM  
PIN NO.-786125

15: NANTU DEY  
(PHARMACIST REGISTRATION NO.8764)  
S/O- LATE LAL CHAND DEY  
R/O- HOJAI COLLEGE ROAD

P.O.-HOJAI  
DIST.-HOJAI  
ASSAM  
PIN NO.-782435

16: ASHOK DAS  
(PHARMACIST REGISTRATION NO.8461)  
S/O-LATE P. RANJAN DAS  
R/O- LAZUM  
P.O.-MARGHERITA

DIST.-TINSUKIA  
ASSAM  
PIN NO.-786181

17: BADAL CHANDRA DEY  
(PHARMACIST REGISTRATION NO.8579)  
S/O- LATE LALCHAND DEY  
R/O- VILL-SEGUNBARI  
P.O.-MARGHERITA

DIST.-TINSUKIA  
ASSAM  
PIN NO.-786181.

18: SHYAMAL CHAKRABORTY  
(PHARMACIST REGISTRATION NO.9795)  
S/O- LATE SACHINDRA CHAKRABORTY  
C/O-KRISHNA DRUGS  
R/O- SADIYA  
CHAPAKHOWA  
HOSPITAL CHARIALI

DIST.-TINSUKIA

ASSAM

PIN NO.-786157.

19: BIPLOB DEY

(PHARMACIST REGISTRATION NO.7800)

S/O- BHAKTI BHUSAN DEY

R/O- HOUSE NO.45

LACHIT NAGAR

DIST.-KAMRUP (M)

ASSAM

PIN NO.-781007

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, MR. R HAZARIKA,MR. C CHAKRAVARTY,MR  
D DAS,MR B P SARMAH,B SAHA

**Advocate for the Respondent** : SC, HEALTH,

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

**ORDER**

**09.08.2024**

1. Heard Mr. S. Sarma, learned counsel for the petitioner, who submits that the petitioners are aggrieved by the cancellation notices made under Section 36(1)(i) of the Pharmacy Act, 1948 (hereinafter referred to as the "1948 Act"), which are from Annexure-65 to Annexure-84.

2. The petitioners grievance is that prior to the cancellation of their pharmacist licences, they have not been furnished with the Executive Committee Resolution (6) dated 17.08.2022 and the Confirmation made by the State Council under Section 36(3) of the 1948 Act, which was the basis for cancelling the licences of the petitioners.

3. The petitioners' counsel submits that due to the above, the petitioners have not been able to prefer an appeal in terms of Section 36 of the 1948 Act. He prays that a direction may be issued to the respondents, to furnish to the petitioners the Executive Committee Resolution (6) dated 17.08.2022 and the Confirmation made by the State Council under Section 36(3) of the 1948 Act. He also submits that similar cases have been disposed of by this Court, one of being WP(C) 1543/2024. He accordingly prays that the present writ petition may be disposed of, in terms of the order dated 18.03.2024 passed in WP(C) 1543/2024.

4. Mr. B. Gogoi, learned counsel for the Assam Pharmacy Council submits that the Executive Committee Resolution (6) and the Confirmation made by the State Council would be provided to the petitioners, within a period of 2 (two) weeks from the date of receiving the certified copy of this order.

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

6. On perusing the order dated 18.03.2024 passed in WP(C) 1543/2024, this Court finds that the present case is a covered matter and can be disposed of, in terms of the order dated 18.03.2024 passed in WP(C) 1543/2024.

7. Paragraph 7 and 8 of the order dated 18.03.2024 passed in WP(C) 1543/2024 is reproduced hereinbelow, as follows :

*“7. Accordingly, this Court is of the view that in terms of the order dated 24.11.2023, passed in W.A. No. 431/2023, the petitioners should be allowed to*

*file an appeal as and when they are given a copy of the Executive Committee Resolution and the confirmation of the same by the State Council.*

*8. As an alternative remedy of appeal under Section 36(4) of the Act, 1948 is available and in the meantime, the Hon'ble Division Bench in a similar circumstance has relegated the similarly situated petitioners to approach the appellate authority, this writ petition stands 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."*

8. On considering the submissions made by the counsels for the parties and the order dated 18.03.2024 passed in WP(C) 1543/2024, this writ petition is disposed of with a direction to the respondents to provide to the petitioners, the Executive Committee Resolution (6) and the Confirmation made by the State Council, within two weeks, from the date of receipt of a certified copy of this

order along with the copy of the writ petition.

9. Till the Resolution (6) of the Executive Committee and the Confirmation made by the State Council is provided to the petitioners, the orders of cancellation of the licences of the petitioners shall remain suspended. The above is however subject to the condition that the petitioners approach the respondents with the certified copy of this order along with the copy of the writ petition, within 7 (seven) days from today.

10. The writ petition is accordingly disposed of.

**JUDGE**

**Comparing Assistant**