

GAHC010129532024



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

Case No. : WP(C)/3343/2024

BISHNU DAYAL SAHU
S/O- LATE KHEDRAU SAHU,
RESIDENT OF VILLAGE- MONABARI KOLLOBASTI,
P.O.- MONABARI, P.S.- GINGIA,
DISTRICT- BISWANATH, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
DEPARTMENT OF FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS,
DISPUR, GUWAHATI- 781006

2:THE DEPUTY COMMISSIONER
BISWANATH DISTRICT
BISWANATH CHARIALI
ASSAM
PIN- 784176.

3:THE DIRECTOR OF FOOD AND CIVIL SUPPLIES AND CONSUMER
AFFAIRS
GOVERNMENT OF ASSAM
GUWAHATI ASSAM. PIN- 781005.

4:THE ASSISTANT DIRECTOR
FOOD
PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS
BISWANATH ASSAM

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 27.06.2024

Heard Mr. B. D. Das, learned Senior Counsel, assisted by Ms. R. Deka, learned counsel for the petitioner.

2. The petitioner is aggrieved with the impugned order dated 26.04.2024 issued by the respondent No. 4, by which the cancellation of the petitioner's PDS licence has not been interfered with.

3. The petitioner's grievance is that the impugned order dated 26.04.2024 is cryptic and has not taken into consideration the various issues raised by the petitioner in his reply to the show cause notice dated 28.10.2022. He further submits that the inquiry report has not been furnished to him.

3. Mr. K. Gogoi, learned counsel for the respondents submits that the writ petition can be disposed of, if a direction is issued to the respondent authorities to issue a fresh show cause notice to the petitioner, by including the field verification report and any other inquiry report made against the petitioner.

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

5. The matter pertains to the cancellation of the petitioner's PDS licence on 10.11.2015. Prior to the cancellation of the petitioner's licence, the petitioner had apparently asked the respondents to transfer his ration card holders to another PDS stock, due to the petitioner having a criminal case registered

against him under Section 302 of the IPC. Thereafter the petitioner's licence was cancelled in the year 2015. As the petitioner's request to withdraw the cancellation of PDS licence was not being considered, the petitioner filed WP(C) 1957/2017 before this Court. In the said WP(C) 1957/2017, the stand of the petitioner was that the petitioner was not given any prior notice, before issuing the cancellation order dated 10.11.2015.

6. This Court disposed of WP(C) 1957/2017 by remanding back the matter to the Assistant Director, Food, Civil Supplies and Consumer Affairs, Biswanath Chariali to take a fresh decision in respect of the petitioner, by issuing a show cause notice to the petitioner and to pass a reasoned order thereafter.

7. The petitioner was thereafter issued a show cause notice dated 28.10.2022 in compliance with the order dated 31.08.2022 passed in WP(C) 1957/2017. The petitioner made a detailed reply to the said show cause notice, vide letter dated 02.11.2022.

8. The respondent No. 4 then issued the impugned order dated 26.04.2024 by which the petitioner's prayer to withdraw the cancellation order was rejected. The order dated 26.04.2024 states as follows:-

“No.BFS-54/2017/HC/A/326:- On perusal of the note submitted by Addl. District Commissioner, i/c FPD & CA, Biswanath regarding hearing of the petitioner (dated-28/11/2023) and as per the field verification report submitted by the Area Inspector FPD & CA, Biswanath, (dated-27/12/2023) the opinion of the beneficiaries clearly reflects non restoration of the PDS license of Sri Bishnu Dayal Sahu of Kollobasti, Monabari under Biswanath.

As per approval of the District Commissioner, Biswanath, and in the

greater interest of the consumer under NFSA, 13 the prayer petition of Sri Bishu Dayal Sahu, is dismissed and the earlier cancellation order of the PDS license of Bishnu Dayal Sahu vide order No.BFS 25/2013/Pub-Baghmara/156, Dated-10/11/2015 is retained herewith”

9. On considering the impugned order dated 26.04.2024, this Court finds that the respondent No. 4 has not passed a reasoned order, as directed by this Court in WP(C) 1957/2017. Accordingly, the impugned order dated 26.04.2024 is hereby set aside. The case is remanded back to the respondent No. 4 to issue a fresh show cause notice to the petitioner along with field verification report and any other inquiry reports, to enable the petitioner to make a reply to the same. The respondent No. 4 shall thereafter pass a reasoned order. The fate of the cancellation order dated 10.11.2015 would depend upon the final decision to be taken by the respondent No. 4.

10. The respondent No. 4 shall submit a show cause notice to the petitioner, within a period of ten days from the date of receipt of a certified copy of this order and shall take a decision on the petitioner's reply to the show cause notice, if any, within a period of two weeks from the date of receipt of the reply to the show cause notice.

11. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant