

GAHC010139672023



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

Case No. : WP(C)/3691/2023

SAIDUL ISLAM AND 6 ORS
S/O ABDUL AZIZ SK.

RESIDENT OF VILL- DHUTURAMARI

P.O.- SRINAGAR
P.S.- TAMARHAT

DIST. DHUBRI
ASSAM

PIN- 783332.

2: ABDUS SAMAD SK.
S/O- JAHIRUL HOQUE SK.

RESIDENT OF VILL- SANALURDABRI

P.O.- KAMANDANGA

P.S.- TAMARHAT
DIST.- DHUBRI

ASSAM
PIN- 783332.

3: RAJU CHOWDHURY
S/O- BABULAL CHOWDHURY

RESIDENT OF CHOTOGUMA

P.O.- CHOTOGUMA

P.S.- GOLAKGANJ

DIST.- DHUBRI
ASSAM

PIN- 783335.

4: JARIMUDDIN SHEIKH
S/O- ABUL SHEIKH

RESIDENT OF VILL.- CHOTOGUMA

P.O.- CHOTOGUMA

P.S.- GOLAKGANJ

DIST.- DHUBRI
ASSAM

PIN- 783332.

5: SHAHIDUR RAHMAN
S/O- ABDUR RASHID SHEIKH

RESIDENT OF VILL- BAGHDOKRA

P.O.- KAMANDANGA

P.S. TAMARHAT

DIST.- DHUBRI
ASSAM

PIN- 783332.

6: ANJALI ROY
W/O- SRI HITEN CH. RAY

RESIDENT OF VILL- OXYGURI

P.O.- SRINAGAR

P.S.- TAMARHAT

DIST.- DHUBRI
ASSAM

PIN- 783332.

7: INSAN ALI MANDAL
S/O SAMAD ALI MANDAL

RESIDENT OF VILL- TAMACHA BAGAN

P.O.- SRINAGAR

P.S.- TAMARHAT

DIST.- DHUBRI
ASSAM

PIN- 783332.
VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF
ASSAM

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT

DISPUR
GUWAHATI-06.

2:THE DIRECTOR OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT
BHANGAGARH
GUWAHATI-05.

3:THE DEPUTY COMMISSIONER
KOKRAJHAR
P.O. AND DIST.- KOKRAJHAR

BODOLAND TERRITORIAL COUNCIL (BTC)
ASSAM

PIN- 783370.

4:THE SUB-DIVISIONAL OFFICER (CIVIL)
GOSSAIGAON
P.O.- GOSSAIGAON
DIST- KOKRAJHAR

BODOLAND TERRITORIAL COUNCIL (BTC)
ASSAM

PIN- 783360.

5:THE COUNCIL HEAD OF THE DEPARTMENT

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
BODOLAND TERRITORIAL COUNCIL (BTC)
KOKRAJHAR

BODOLAND TERRITORIAL COUNCIL(BTC)
ASSAM

PIN- 783370.
6:THE ASSTT. DIRECTOR OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
GOSSAIGAON
BODOLAND TERRITORIAL COUNCIL (BTC)

DIST. - KOKRAJHAR
ASSAM
PIN- 783360.
7:THE DEPUTY COMMISSIONER
DHUBRI
P.O.
P.S. AND DIST.- DHUBRI

ASSAM
PIN- 783301.

Advocate for : MR. R MAZUMDAR
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 01.05.2024

Heard Mr. R. Islam, learned counsel for the petitioners. Also heard Mr. B.J. Talukdar, learned senior counsel, assisted by Mr. N. Kalita, learned Govt. advocate appearing for respondent nos. 1, 2, 3 and 7 as well as Mr. S. Bora, learned standing counsel for the BTC, respondent nos.4 to 6.

2. The case of the petitioners is that they are dealers of Fair Price Shop in their respective village under the Tamarhat GPPS Ltd. The Govt. of Assam introduced distribution of essential commodities in online mode by issuing ePOS device for which the individual dealer identity is required for every Fair Price Shop dealers.

3. Accordingly, the petitioners claim that they have approached the Assistant Director, Food, Civil Supplies & Consumer Affairs (respondent no.6) for providing them with dealer identities. It is also projected that after various Fair Price Shop dealers have either resigned or started procuring food articles from other GPPS. Vacant identities of erstwhile dealers are available. Therefore, the petitioners have approached the Assistant Director, Food, Civil Supplies & Consumer Affairs to upload the names of the petitioners against those vacant identities of erstwhile dealers. However, approval has not been received and apprehension is expressed that the supplies of commodities for distribution under the PDS system may be stopped to the petitioners

4. In this case although notice of motion was issued by order dated 26.06.2023, but no response has been filed till date.

5. The learned standing counsel for the BTC has submitted that he is in receipt of instruction vide letter dated 01.08.2023 in connection with issues raised in this writ petition, and he is instructed that the Council Head of Department of Food, Civil Supplies & Consumer Affairs, BTR, Kokrajhar, on consideration of matters available on record, issued letter No. CHD/FCS&CA-35/2022/53 dated 25.04.2022, to the Director of Food, Civil Supplies & Consumer Affairs, Assam to create new Fair Price Shop dealer identity and the matter relating to creation of new identity is under consideration of the Director, Food, Civil Supplies & Consumer Affairs, Assam.

6. From the said instructions, it also appears that the State Government has already issued direction to the Principal Secretary, BTC, to take action against the Fair Price Shop dealers who have been found violating the notification for online delivering of NFSA commodities without using ePOS device.

7. Under such circumstances, it is seen that the authorities in the BTC have no objection to the petitioners being granted new identities to enable them to supply NFSA articles through ePOS device. Moreover, the fact that the petitioners are Fair Price Shop dealers is also not disputed by the respondents, as such the Court is inclined to direct the Director of Food, Civil Supplies & Consumer Affairs, Assam (respondent no.2) to make such enquiry as may be required for the purpose and to create new identities in respect of the Fair Price Shop of the petitioners so that they can receive and distribute NFSA articles in online mode by using ePOS device.

8. Consequently, the said authority shall also pass necessary orders so that ePOS device can be made available to the petitioners. The entire exercise of creating new identity of the Fair Price Shop of the petitioners shall be completed within a period of 6(six) weeks from the date of service of certified copy of this order upon the office of the Director of Food, Civil Supplies & Consumer Affairs, Assam.

9. It is hoped that ePOS device shall also be provided to the petitioners within a reasonable time thereafter.

10. This writ petition stands allowed to the extent as indicated above.

11. Instruction produced by the learned standing counsel for the BTC is returned.

12. It is provided that interim order passed on 26.06.2023 not to

discontinue the Fair Price Shop of the petitioners stands extended till conclusion of the exercise by the Director of Food, Civil Supplies & Consumer Affairs, Assam.

JUDGE

Comparing Assistant