

GAHC010152182024



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

Case No. : WP(C)/3843/2024

AMBUJA SINGH AND ANR
W/O SRI AMIT SINGH
R/O PAILAPOOL, P.S. LAKHIPUR
DIST. CACHAR, ASSAM, PIN- 788098

2: SRI BINOD KAIRI
S/O LATE BACHAN KAIRI
R/O VILL- LALANGKITTA
LABCPAR PART-II
P.O. PAILAPOOL
P.S. LAKHIPUR
DIST. CACHAR
ASSAM

PIN-78809

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE CHIEF SECRETARY, TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI, KAMRUP (M)-6, ASSAM

2:THE ADDITIONAL CHIEF SECRETARY

GOVT. OF ASSAM
FOOD PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS
DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE SECRETARY

TO THE GOVT. OF ASSAM
FOOD AND CIVIL SUPPLIES DEPARTMENT

DISPUR
GUWAHATI
KAMRUP (M)-6
ASSAM

4:THE COMMISSIONER

FOOD AND CIVIL SUPPLIES
CONSUMER AFFAIRS AND LEGAL METROLOGY DEPARTMENT
GUWAHATI
KAMRUP (M)
ASSAM
PIN- 781005

5:THE DISTRICT COMMISSIONER

CACHAR
SILCHAR
ASSAM
PIN-788001

6:THE SUB-DIVISIONAL OFFICER (CIVIL)

DEPARTMENT OF FOOD AND CIVIL SUPPLIES
LAKHIPUR
SUB-DIVISION
LAKHIPUR
CACHAR
ASSAM

PIN-788098

7:THE ASSISTANT COMMISSIONER CUM EXECUTIVE MAGISTRATE

LAKHIPUR
DIST. CACHAR
ASSAM
PIN-788098

8:THE SUPERINTENDENT

FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
LAKHIPUR
SUB-DIVISION
LAKHIPUR
P.O. AND P.S. LAKHIPUR

DIST. CACHAR

ASSAM
PIN-788098

9:THE INSPECTOR

FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
LAKHIPUR SUB - DIVISION
LAKHIPUR
P.O. AND P.S. LAKHIPUR
DIST. CACHAR
ASSAM

PIN-78809

Advocate for the Petitioner : MR. I ALAM, MR. T SK

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

07.08.2024

1. Heard Mr. I. Alam, learned counsel for the petitioner, who submits that the impugned order dated 22.07.2024 passed by the Sub-Divisional Officer (Civil), Lakhipur, suspending the PDS Licence granted in the name of the petitioner no.1 should be set aside, inasmuch as, no notice had been issued to the petitioner, prior to the impugned order dated 22.07.2024.

2. Mr. K. Gogoi, learned counsel for all the respondents submits that the impugned order dated 22.07.2024 is with regard to the findings in the inquiry made against the petitioner no.1, in relation to diversion of highly subsidized TDPS rice meant for poor beneficiaries by the petitioner no.1. The Inquiry Report found that the petitioner no.1 had violated the provisions of Clause 10,

20 and 25 of the Assam Public Distribution of Articles Order, 1982 (hereinafter referred to as the "1982 Order") read with the terms and condition nos.2(a)(b), 4, 7 as well as Clause 10(1), 10(4)(i) and 11(3) of the Targeted Distribution System (Control) Order, 2015.

3. Mr. K. Gogoi submits that any order issued by an officer lower in rank than the Deputy Commissioner/District Commissioner, can be challenged in appeal before the Deputy Commissioner/District Commissioner, in terms of Clause 29(1) (b) of the 1982 Order. He submits that as the impugned order has been issued under the provisions of Clause 15(1) of the 1982 Order, the petitioner should challenge the impugned order before the Deputy Commissioner/District Commissioner.

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

5. As there is an alternative remedy available to the petitioner, this Court is not inclined to exercise it's discretion in this case, inasmuch as, Clause 29(1)(b) of the 1982 Order provides that an order made by the SDO(C), Lakhipur can be challenged in appeal before the Deputy Commissioner/District Commissioner.

6. In view of the reasons stated above, the writ petition is dismissed, with liberty being given to the petitioner to approach the Deputy Commissioner/District Commissioner, Cachar against the impugned order dated 22.07.2024. In the event the petitioner approaches the Deputy Commissioner/District Commissioner, Cachar, within the limitation period of 30 days, from the date of receipt of the impugned order, the Deputy

Commissioner/District Commissioner, Cachar shall dispose of the said appeal, after giving an opportunity of hearing to the petitioner, within a period of 15 days from the date of receipt of the appeal.

JUDGE

Comparing Assistant