

GAHC010164552024



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

Case No. : WA/279/2024

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. RASHIDUL ISLAM, MR. B J GHOSH, MR. T SK

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 21-08-2024

(Vijay Bishnoi, CJ)

This Writ Appeal is filed by the appellants, being aggrieved with the order dated 07.08.2024, passed by the learned Single Judge in WP(C) No.3843/2024, whereby the learned Single Judge has dismissed the Writ Petition filed by the appellant, while granting liberty to them to approach the Deputy Commissioner/District Commissioner, Cachar, against the impugned order dated 22.07.2024, whereby the PDS Licence, granted in the name of the Appellant No.1 was suspended.

2. The learned Single Judge has further observed that in the event the petitioner approaches the Deputy Commissioner/District Commissioner, Cachar, within the limitation of thirty (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 fifteen (15) days from the date of receipt of the Appeal.

3. The appellants have approached the Writ Court, being aggrieved with the order dated 22.07.2024, passed by the Sub-Divisional Officer (Civil), Lakhipur,

whereby the PDS Licence, granted in the name of the Appellant No.1 was suspended. The learned Single Judge, taking note of the provisions of the Assam Public Distribution of Articles Order, 1982, particularly Clause 29(1)(b) of the 1982 Order, has observed that as the appellants have an alternate remedy to approach the Deputy Commissioner cum District Commissioner, Cachar against the order passed by the SDO (Civil), Lakhimpur, the Writ Petition is liable to be dismissed, while granting liberty to the appellants to approach the Deputy Commissioner/District Commissioner, Cachar within a period of 30 days.

4. Learned counsel for the appellants has submitted that as a matter of fact, the SDO (Civil), Lakhimpur has suspended the PDS Licence, issued in the name of the Appellant No.1, as per the direction of the District Commissioner, Cachar and the same is evident from the Annexure-29 to the Writ Petition. Therefore, there is no point in filing an Appeal before the District Commissioner, Cachar, because it would amount to approaching the authority who himself has passed the order. Learned counsel for the appellants has submitted that he may be allowed to challenge the order passed by the SDO (Civil), Lakhimpur, dated 22.07.2024, before the Commissioner, as per the provision of order 29(1)(c) of the 1982 Order, which provides that Appeal can be filed against the order of the District Commissioner to the Commissioner.

5. Learned counsel for the respondents has no objection if the liberty is granted to the appellants to file an Appeal before the Commissioner against the impugned order dated 22.07.2024, passed by the SDO (Civil), Lakhimpur.

6. In view of the above, this Writ Appeal is disposed of with the modification that liberty is granted to the appellants to approach the Commissioner against the impugned order dated 22.07.2024, passed by the SDO (Civil), Lakhimpur. It is

also observed that if the appellants approach the Commissioner (Respondent No.4), within a period of thirty (30) days from today, the Commissioner concerned shall dispose of the said Appeal, after giving an opportunity of hearing to the appellants, within a period of fifteen (15) days from the date of receipt of the Appeal.

JUDGE

CHIEF JUSTICE

Comparing Assistant