

GAHC010189942023



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

Case No. : WP(C)/5211/2023

JOLLY SULTANA BARLASKAR
W/O MOIN UDDIN BARLASKAR
VILL- BARJATRAPUR
UJANGRAM
P.O.-BORKHOLA
P.S.-BORKHOLA
DIST- CACHAR
ASSAM
PIN-788110

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT
DISPUR
GUWAHATI-06
DIST- KAMRUP (M)
ASSAM

2:THE COMMISSIONER
DIST-CACHAR
SILCHAR
ASSAM
PIN-788001

3:THE DEPUTY COMMISSIONER
DIST-CACHAR
SILCHAR
ASSAM
PIN-788001

4:THE ASSTT. COMMISSIONER AND EXECUTIVE MAGISTRATE
CACHAR
SILCHAR
ASSAM
PIN-788001

5:THE SUPERINTENDENT
FOOD AND CIVIL SUPPLIES AND CONSUMERS AFFAIRS
DIST-CACHAR
SILCHAR
ASSAM
PIN-788001

6:THE INSPECTOR
FOOD AND CIVIL SUPPLIES AND CONSUMERS AFFAIRS
DIST-CACHAR
SILCHAR
ASSAM
PIN-788001

Advocate for : MR. S BARMAN

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 5 ORS.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

28.10.2024

Heard Mr. S. Barman, learned counsel for the petitioner, who submits that the impugned order dated 26.07.2023 issued by the Superintendent, Food Civil Supplies & Consumer Affairs, Silchar, by which the petitioner's retail licence bearing No. 3290 of 2017 has been cancelled, should be set aside, on the ground that the principles of natural justice have not been followed.

2. The petitioner's case is that the petitioner has been running a fair price shop and licence for that purpose was issued to him. However, on the basis of the enquiry report dated 12.07.2023 issued by the Executive Magistrate, Cachar,

Silchar, the respondents issued the impugned order dated 26.07.2023, cancelling the petitioner's licence.

3. The petitioner's counsel submits that as the enquiry report had not been furnished to the petitioner to enable him to make a representation against the same, the impugned order dated 26.07.2023 should be set aside.

4. Ms. U. Das, learned counsel for all the respondents has brought the official records and on perusal of the same, it is clear that the enquiry report dated 12.07.2023 issued by the Executive Magistrate, Cachar, Silchar was not furnished to the petitioner, prior to the impugned order dated 26.07.2023 being issued.

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

6. As the official records have clarified the fact that the enquiry report dated 12.07.2023 was not furnished to the petitioner prior to the issuance of the impugned order and as the same was the basis for which the impugned order dated 26.07.2023 had been issued, this Court finds that the impugned order has been issued in violation of the principles of natural justice. As such, the impugned order dated 26.07.2023 issued by the respondents is set aside.

7. As the allegation is with regard to non-maintenance of the registers and non maintenance of stock, besides overwriting and change of values, the respondents are given the liberty to issue a fresh show-cause-notice to the petitioner along with a copy of the enquiry report and complaint, if so advised. If a fresh show-cause is not issued to the petitioner within 2 weeks from the date of receipt of a copy of this order, the petitioner should be allowed to

operate her Fair Price Shop.

8. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant