

GAHC010221212024



2024:GAU-AS:12058

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

Case No. : WP(C)/6370/2024

ARUP KUMAR MAULIK AND 22 ORS
(AGED ABOUT 73 YEARS)
(PHARMACIST REGISTRATION NO. 7914)
S/O- LATE HEMENDRA NATH MAULIK
R/O- A.O.C. ROAD, P.O.AND DIST.-BONGAIGAON, PIN NO.-783380, ASSAM

2: SHRI SUKUMAR KUNDU
(AGED ABOUT 75 YEARS)
(PHARMACIST REGISTRATION NO. 7509)
S/O- LATE SUDHIR CH. KUNDU
C/O-JYOTI MEDICAL HALL
MAIN ROAD

P.O. AND DIST.-BONGAIGAON
PIN NO.-783380
ASSAM

3: IBRAHIM ANSARY
(PHARMACIST REGISTRATION NO. 10394)
S/O- JOYNAL ABEDIN

R/O-VILL- OUDUBI
P.O.-KHELUA PARA
DIST.-BONGAIGAON
PIN NO.-783371
ASSAM

4: SHRI TARUN SAHA
(AGED ABOUT 49 YEARS)
(PHARMACIST REGISTRATION NO. 9316)
S/O- NRIPENDRA CH. SAHA
C/O- SABITA MEDICAL HALL
R/O- NORTH BONGAIGAON
NEAR CHAPAGURI ROAD

P.O. AND DIST.- BONGAIGAON
PIN NO.-783380
ASSAM

5: SHRI GOBINDA CHANDRA SHIL
(AGED ABOUT 73 YEARS)
(PHARMACIST REGISTRATION NO.5331)
S/O- LATE GOPESWAR SHIL
C/O- MAA PHARMACY
BONGAIGAON
R/O-T.R. PHUKAN ROAD
P.O. AND DIST.- BONGAIGAON
PIN NO.-783380
ASSAM

6: SHRI SHASHANGKA MUSHAHARY
(AGED ABOUT 64 YEARS)
(PHARMACIST REGISTRATION NO.9542)
S/O- LATE BIRENDRA NATH MUSHAHARY
R/O-VILL AND P.O.-DHALIGAON
WARD NO.03
UNDER KAJAL GAON MUNICIPALITY
DIST.-CHIRANG

B.T.R.
ASSAM
PIN NO.783385

7: SHRI BISWAJIT BHATTACHARJEE
(AGED ABOUT 52 YEARS)
(PHARMACIST REGISTRATION NO.10513)
S/O- LATE KALIDAS BHATTACHARJEE
R/O- NATUN PARA
P.O. AND DIST.-BONGAIGAON
PIN NO.-783380
ASSAM

8: SHRI LITON KUMAR SAHA
(AGED ABOUT 51 YEARS)
(PHARMACIST REGISTRATION NO. 9404)
S/O- LATE RAM PADA SAHA
R/O- BONGAIGAON
P.O.-NORTH BONGAIGAON
PIN NO.-783380
ASSAM

9: SHRI MAHADEV SAHA

(AGED ABOUT 52 YEARS)
(PHARMACIST REGISTRATION NO. 9490)
S/O- LATE SUNIL KR. SAHA
R/O- VILL AND P.O.-CHOTAGUMA
DIST.-KOKRAJHAR
B.T.R
PIN NO.- 783370
ASSAM

10: SHRI RAGHU NATH SAHA
(AGED ABOUT 79 YEARS)
(PHARMACIST REGISTRATION NO. 7434)
S/O- LATE RAM PADA SAHA
C/O- MEDICINE CENTRE

R/O- CHAPAGURI ROAD
NORTH BONGAIGAON
P.O. AND DIST.-BONGAIGAON
PIN NO.-783380
ASSAM

11: SHRI SATYAJIT CHAKRABORTY
.
(AGED ABOUT 67 YEARS)
(PHARMACIST REGISTRATION NO.9453)
S/O- LATE MOTILAL CHAKRABORTY
R/O- G.T.B. ROAD
WARD NO.06

P.O. AND DIST.-DHUBRI
PIN NO.783301
ASSAM

12: SHRI BIPLAB DEBNATH
(AGED ABOUT 52 YEARS)
(REGISTRATION NO. 11475)
S/O- SRI SURESH DEBNATH
R/O- VILL- TAKRARCHARA
PT. IV
P.O.-GOLAKGANJ
DIST.-DHUBRI
ASSAM
PIN NO.-783334

13: SHRI PRADIP KR. SAHA
(AGED ABOUT 75 YEARS)
(PHARMACIST REGISTRATION NO.7626)
S/O- LATE NARAYAN CHANDRA SAHA

C/O- SAHA MEDICAL HALL
SORBHOG

DIST.-BARPETA
PIN NO.-781317
ASSAM

14: SHRI BIPLAB SAHA
(AGED ABOUT 58 YEARS)
(PHARMACIST REGISTRATION NO. 8691)
S/O- LATE HARIPADA SAHA
R/O- VILL AND P.O.-HAIBARGAON
DIST.-NAGAON
ASSAM
PIN NO.-782002

15: SHRI UTTAM KUMAR DEB NATH
(AGED ABOUT 55 YEARS)
(PHARMACIST REGISTRATION NO.9764)
S/O- LATE PRAHLAD CHANDRA DEB NATH

P.O.-DHING
DIST.-NAGAON
ASSAM
PIN NO.-782123

16: SMT. ARCHANA ROY
(AGED ABOUT 59 YEARS)
(PHARMACIST REGISTRATION NO. 9219)
C/O- LATE AMULYA ROY
R/O- SUBHASH PALLY
P.O.-KOKRAJHAR
DIST.-KOKRAJHAR
ASSAM
PIN NO.783370

17: SHRI ALOK KUMAR MITRA
(AGED ABOUT 60 YEARS)
(PHARMACIST REGISTRATION NO. 9333)
S/O- DHANANJAY MITRA
C/O- RAM KRISHNA MEDICAL HALL
P.O.-GOSSAIGAON TULSHIBIL
DIST.-KOKRAJHAR
PIN NO.-783337
ASSAM.

18: SHRI KALYAN KUMAR DAS
(AGED ABOUT 64 YEARS)

(PHARMACIST REGISTRATION NO.7595)
S/O- LATE PABITRA KUMAR DAS
C/O- DOOMDOOMA STORES AND AGENCY
P.O.-DOOMDOOMA
DIST.-TINSUKIA
PIN NO.-786151
ASSAM
1

19: AFAZ UDDIN AHMED
(AGED ABOUT 53 YEARS)
(PHARMACIST REGISTRATION NO. 9140)
S/O- LATE MD. AMIR UDDIN AHMED
R/O-NADIKA (KAHIPARA) P.O.-ISLAM GAON
DIST.-LAKHIMPUR
PIN NO.-787054
ASSAM

20: SHRI SIBEN KR. SARMA
(AGED ABOUT 57 YEARS)
(PHARMACIST REGISTRATION NO. 9022)
S/O- LATE SARBESWAR SARMA
R/O- VILL AND P.O.-BENGTOLE
DIST.-BONGAIGAON
PIN NO.-783380
ASSAM

21: SMT. TAPASHI MAHANTA
(AGED ABOUT 43 YEARS)
(PHARMACIST REGISTRATION NO. 9308)
C/O- BASANTA MAHANTA
R/O- PAUL PARA
DIST.-BONGAIGAON
PIN NO.-783380
ASSAM

22: SHRI SANKAR SARMA
(AGED ABOUT 62 YEARS)
(PHARMACIST REGISTRATION NO. 9298)
S/O- LATE SARBESWAR SARMA
R/O- VILL AND P.O.-BENGTOLE
DIST.-CHIRANG
PIN NO.-783375

BTR
ASSAM

23: SHRI RAJESH AGARWALLA (BAJAJ)

(AGED ABOUT 50 YEARS)
(PHARMACIST REGISTRATION NO.9456)
S/O- LATE RAMABATAR AGARWALLA
R/O- WARD NO.02
SORBHOG
P.O.-SORBHOG
DIST.-BARPETA
PIN NO.-781317
ASSA

VERSUS

THE ASSAM PHARMACY COUNCIL AND 5 ORS (B)
A COUNCIL CONSTITUTED UNDER THE PROVISIONS OF SEC. 19 OF THE
PHARMACY ACT, 1948 AND HAVING ITS OFFICE SITUATED IN THE OFFICE
OF THE DIRECTOR OF HEALTH SERVICES CAMPUS, PHARMACY
BHAWAN, HENGRABARI, GUWAHATI -781036, IN THE DISTRICT OF
KAMRUP(M), ASSAM.

2:THE EXECUTIVE COMMITTEE

A COMMITTEE CONSTITUTED UNDER SEC. 27 OF THE PHARMACY ACT
1948 AND REPRESENTED BY THE PRESIDENT HAVING ITS OFFICE AT
OFFICE OF THE DIRECTOR OF HEALTH SERVICES CAMPUS
PHARMACY BHAWAN
HENGRABARI
GUWAHATI - 781036
IN THE DISTRICT OF KAMRUP(M)
ASSAM.

3:THE REGISTRAR CUM SECRETARY

ASSAM PHARMACY COUNCIL
HENGRABARI
PHARMACY BHAWAN
GUWAHATI - 781036 IN THE DISTRICT OF KAMRUP (M)
ASSAM.

4:THE STATE OF ASSAM

REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI - 781006.

5:THE PRINCIPAL SECRETARY

TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR

GUWAHATI - 781006.

6:THE DIRECTOR
HEALTH SERVICES

HENGRABARI
GUWAHATI - 781036 IN THE DISTRICT OF KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. S SARMA, S J KALITA,B SAHA,MR B P SARMAH,MR D DAS,MR. C CHAKRAVARTY,MR. R HAZARIKA

Advocate for the Respondent : SC, HEALTH,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

02.12.2024

Heard Mr. S. Sarma, learned counsel for the petitioners, who submits that the petitioners are aggrieved by the cancellation notices made under Section 36(1)(i) of the Pharmacy Act, 1948 (hereinafter referred to as the '1948 Act').

2. The petitioners grievance is that prior to the cancellation of their pharmacist licences, they have not been furnished with the Executive Committee Resolution (6) dated 17.08.2022 and the Confirmation made by the State Council under Section 36(3) of the 1948 Act, which was the basis for cancelling the licences of the petitioners.

3. The petitioners' counsel submits that due to the above, the petitioners have not been able to prefer an appeal in terms of Section 36 of the 1948 Act. He prays that a direction may be issued to the respondents, to furnish to the petitioners the Executive Committee Resolution (6) dated 17.08.2022 and the

Confirmation made by the State Council under Section 36(3) of the 1948 Act. He also submits that similar cases have been disposed of by this Court, one of being WP(C) 1543/2024. He accordingly prays that the present writ petition may be disposed of, in terms of the order dated 18.03.2024 passed in WP(C) 1543/2024.

4. Mr. B. Gogoi, learned counsel for the Assam Pharmacy Council submits that the Executive Committee Resolution (6) and the Confirmation made by the State Council would be provided to the petitioners, within a period of 2 (two) weeks from the date of receiving the certified copy of this order.

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

6. On perusing the order dated 18.03.2024 passed in WP(C) 1543/2024, this Court finds that the present case is a covered matter and can be disposed of, in terms of the order dated 18.03.2024 passed in WP(C) 1543/2024.

7. Paragraph 7 and 8 of the order dated 18.03.2024 passed in WP(C) 1543/2024 is reproduced hereinbelow, as follows :

“7. Accordingly, this Court is of the view that in terms of the order dated 24.11.2023, passed in W.A. No. 431/2023, the petitioners should be allowed to file an appeal as and when they are given a copy of the Executive Committee Resolution and the confirmation of the same by the State Council.

8. As an alternative remedy of appeal under Section 36(4) of the Act, 1948 is available and in the meantime, the Hon'ble Division Bench in a

similar circumstance has relegated the similarly situated petitioners to approach the appellate authority, this writ petition stands disposed of with the following directions:

I. The petitioners within a period of ten days from today shall submit a copy of the order passed by this Court today along with a copy of the writ petition to the respondent No.1.

II. The respondent No. 1 within a period of two weeks thereafter shall provide a copy of the Executive Committee Resolution to the petitioners, whereby the decision to remove the name of the petitioners from the roll of the council was taken and a copy of the decision/confirmation made by the State Council.

III. Thereafter, on receipt of the copies of the resolution made by the Executive Committee and the confirmation made by the State Council, the petitioners shall be at liberty to approach the Appellate Authority within the prescribed period of time under Section 36(4) of the Act, 1948.

IV. Till the Resolution of the Executive Committee and confirmation by the State Council is provided to the petitioners, the orders of cancellation of licences of the petitioners shall remain suspended. The above is also subject to the condition that the petitioners should approach the respondent No.1 for furnishing copies of the Resolution of the Executive Committee and confirmation made by the State Council, within a period of 10(ten) days from today."

8. On considering the submissions made by the counsels for the parties and the order dated 18.03.2024 passed in WP(C) 1543/2024, this writ petition is disposed of with a direction to the respondents to provide to the petitioners, the Executive Committee Resolution (6) and the Confirmation made by the State Council, within two weeks, from the date of receipt of a certified copy of this order along with the copy of the writ petition.

9. Till the Resolution (6) of the Executive Committee and the Confirmation made by the State Council is provided to the petitioners, the orders of cancellation of the licences of the petitioners shall remain suspended. The above is however subject to the condition that the petitioners approach the respondents with the certified copy of this order along with the copy of the writ petition, within 7 (seven) days from today.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant