

GAHC010226872016



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

Case No. : WP(C)/6058/2016

PABAN CHETIA and 2 ORS.
S/O LT. MOHI CHETIA, R/O GELAPHUKHURI ROAD, P.O.and DIST-
TINSUKIA, ASSAM

2: RAJAT BORUAH
S/O LT. HIRANYA KR. BARUAH
R/O AMBIKA GIRI ROY CHOUDHURY PATH
HIJUGURI
P.O. HIJUGURI
DIST- TINSUKIA
ASSAM

3: JISHU BHATTACHARJEE
S/O LT. KATCHI RANJAN BHATTACHARJEE
R/O A.T. ROAD
OPP. S.B.I. MAIN BRANCH
P.O. and DIST- TINSUKIA
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR, GHY-6

2:THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
DEPTT. OF TRANSPORT
DISPUR
GHY-6

3:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
DEPTT. OF TRANSPORT
DISPUR
GHY-6

4:THE SECRETARY
STATE TRANSPORT AUTHORITY
ASSAM
GHY-22

5:THE SECRETARY
REGIONAL TRANSPORT AUTHORITY
TINSUKIA
ASSAM

6:THE DISTRICT TRANSPORT OFFICER
TINSUKIA
ASSA

Advocate for the Petitioner : MR.A J HAZARIKA, MR.R S CHOUDHURY,MS.B S GOYAL

Advocate for the Respondent : GA, ASSAM, ADDL. AG, ASSAM,MR.Y DOLOI(R- 1-3 & 6),SC,
TRANSPORT

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

12.08.2024

1. Heard Mr. A.J. Hazarika, learned counsel for the petitioners. Also heard Ms. M.D. Borah, learned Standing Counsel for the respondent Nos. 2-6 and Mr. K. Gogoi, learned counsel for the respondent No.1.
2. This writ petition has been preferred against the notice dated 07.09.2016 issued by the respondent authorities, to each of the petitioners, directing them to remove their ticket booking counters, if it is within 100 metres radius from the Assam State Transport Corporation (ASTC) bus stand.
3. The petitioners counsel submits that although the respondent authorities have the power to issue such a notice, the same cannot be given effect to during the currency of the licences being held by the petitioners, which were granted to them by the State Transport Authority. He submits that the licences

granted to each of the petitioners were valid during the relevant period and therefore, during the pendency of such licences, the impugned notices could not have been issued by the respondent authorities.

4. Ms. M.D. Borah, learned Standing Counsel, Transport Department submits that the only issue is with regard to whether the ticket booking counters of the petitioners are within a 100 metres radius of the ASTC bus stand and if the same are within the 100 metres radius, the petitioners would have to remove their booking counters to a place beyond 100 metres radius of the ASTC bus stand.

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

6. A perusal of the Agent's Licences issued to the petitioners shows that the same have been issued under Rule 51 of the Assam Motor Vehicle Rules 2003 (hereinafter referred to as 'the Rules'). The licences have been issued for a period of 1 year which are renewable.

7. Rule 54(e)(ii) provides that the place of business of the applicant should not hamper the business of the Assam State Transport Corporation and, it must be at least 300 metres away from the ASTC bus stand in case of Guwahati City and it should be at least 100 metres away from the ASTC bus stand of other towns of Assam. But if any booking counter is at present within the distance mentioned above, he will have to shift his place of business to a suitable place, within a period of 6 months from the date of effect of this rule.

8. As can be seen from Section 54(e)(ii) of the Rules, the booking counters being run by the petitioners cannot be within a distance of 100 metres from the

ASTC bus stand. The above issue is basically a question of fact. As such, this Court is of the view that the issue can be settled, if a committee is formed, which should take measurement of the distance between the booking counters being run by the petitioners and the ASTC bus stand. Accordingly, a committee is constituted comprising of the District Transport Officer, Tinsukia as well as the Officer-in-Charge of the concerned police station or his representatives and the petitioners. They shall measure the distance of the booking counters of the petitioners from the ASTC bus stand, to come to a decision as to whether the petitioners booking counters fall within the 100 metres radius from the ASTC bus stand. If it is found that the petitioners booking counters are within the 100 metres radius, they should be given a time period of 6(six) weeks to shift their booking counters to a place which is 100 metres away from the ASTC bus stand.

9. The District Transport Officer shall fix a date for taking the measurement of the booking counters of the petitioners and give notices to the parties, who are to participate in the spot verification to be made. The entire process should be completed at the earliest and preferably within a period of 1(one) month, from the date of receipt of a certified copy of this order. The petitioners shall submit a copy of this order to the District Transport Officer within one week from today.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant