

GAHC010228982024



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

Case No. : WP(C)/5685/2024

DILIP LAL SRIVASTAV
S/O- LATE JOY GOBINDA SRIVASTAV,
R/O- VILLAGE- LALONGKITTA,
LABAKPAR PART II, P.O- PAILAPOOL, P.S- LAKHIPUR, DIST- CACHAR,
ASSAM, PIN-788004

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT,
DISPUR, GHY-6.

2:THE DIRECTOR FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
DEPTT
GUWAHATI KAMRUP M ASSAM PIN 781005

3:THE DISTRICT COMMISSIONER

CACHAR
SILCHAR ASSAM PIN 788001

4:THE CO- DISTRICT COMMISSIONER

CUM SUB- DIVISIONAL OFFICER (CIVIL)
DEPARTMENT OF FOOD AND CIVIL SUPPLIES
LAKHIPUR
CACHAR
ASSAM

5:THE SUPERINTENDENT
DEPARTMENT OF FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS

LAKHIPUR SUB DIVISION
P.O AND P.S- LAKHIPUR
CACHAR
ASSAM

6:MANIKA PAUL
S/O- LATE BINOD BIHARI PAUL

R/O- VILLAGE-GANTERGRAM

P.O- PAILAPOOL
P.S- LAKHIPUR
DIST- CACHAR
ASSAM
PIN-788004

7:BIJON BIHARI PAUL
S/O- LATE BINOD BIHARI PAUL

R/O- VILLAGE-GANTERGRAM

P.O- PAILAPOOL
P.S- LAKHIPUR
DIST- CACHAR
ASSAM
PIN-78800

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

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

06.11.2024

1. Heard Mr. I. Alam, learned counsel for the petitioner, who submits that the petitioner had applied for grant of a Fair Price Shop licence under the Assam Public Distribution of Articles Order, 1982 (hereinafter referred to as the 'APDA Order, 1982) on 23.05.2022, due to cancellation of the Fair Price Shop licences

of the respondent Nos.6 & 7. The respondent Nos. 6 & 7 thereafter submitted appeals to restore their licences, which was allowed vide speaking order dated 20.08.2024 and 21.08.2024, issued by the District Commissioner, Cachar, Silchar.

2. The petitioner's counsel submits that the licences of the respondent Nos.6 & 7 could not have been restored, while the petitioner's application for grant of an FPS licence was still pending before the respondent authorities. He accordingly submits that the impugned speaking orders, by which the FPS licences of the respondent Nos.6 & 7 have been restored, should be set aside and the respondents should be directed to consider the application of the petitioner for grant of a retail licence, under the APDA Order, 1982.

3. Mr. S.R. Baruah, learned counsel for the State respondents submits that the petitioner's application for a licence having not being granted by the State respondents even till today, no right has accrued to the petitioner to challenge the restoration of the licences that had been granted to the respondent Nos.6 & 7. He accordingly submits that the writ petition should be dismissed.

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

5. The averments made in the writ petition clearly show that the respondent Nos.6 & 7 had been granted retail licences for running Fair Price Shops in terms of the APDA Order, 1982. It is not the case of the petitioner that the initial grant of retail licences for running fair price shops to the respondent Nos. 6 & 7 was arbitrary or in violation of the law. As the petitioner has not made any challenge to the initial grant of retail licences to the respondent Nos.6 & 7, the cancellation of the retail licences and the subsequent restoration of the same

cannot, in the view of this Court, be said to be violative of any fundamental or legal right of the petitioner.

6. In the case of ***Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and Others***, reported in ***(2013) 4 SCC 465***, the Supreme Court has held that only those persons, whose enforceable rights have been violated, can approach a Writ Court under Article 226 of the Constitution for enforcement of their rights.

7. The petitioner having never been granted a retail licence for running a Fair Price Shop, this Court is of the view that no challenge can be made by the petitioner to the restoration of the retail licences of the respondent Nos. 6 & 7, when the initial grant of the same has never been put to challenge. Accordingly, this Court does not find any ground to exercise its discretion in the present case.

8. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant