

GAHC010232842023



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

Case No. : WP(C)/6043/2023

SMTI. PAWALI BORO
W/O- LATE KUHIRAM BORO, R/O- VILL.- BARUAHAWLI, P.O. KABIRALI,
P.S. KALAIGAON, DIST. UDALGURI (BTAD), ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE DIRECTOR OF FOOD
CIVIL SUPPLIES AND CONSUMERS AFFAIRS

ASSAM
BHANGAGARH
GUWAHATI-5.

3:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
KOKRAJHAR
P.O. AND P.S. KOKRAJHAR
DIST. KOKRAJHAR (BTR)
ASSAM
PIN- 783370.

4:THE DEPUTY COMMISSIONER
UDALGURI
PO.
P.S. AND DIST. UDALGURI (BTR)
ASSAM
PIN- 784509.

5:THE DEPUTY DIRECTOR

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
UDALGURI
P.O. AND P.S. UDALGURI
PIN- 784525
DIST. UDALGURI (BTR)
ASSAM

6:THE SUPERINTENDENT

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
UDALGURI
P.O. AND P.S. UDALGURI
PIN- 784525
DIST. UDALGURI (BTR)
ASSAM

7:THE ASSISTANT DIRECTOR

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
BHERGAON
DIST. UDALGURI (BTR)
ASSAM
PIN- 784528.

8:THE INSPECTOR

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
BHERGAON SUB-DIVISION
P.O. AND P.S. BHERGAON
DIST. UDALGURI (BTR)
ASSAM
PIN- 784528

Advocate for the Petitioner : MR R S CHAUHAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

20.03.2024

Heard Mr. R.S. Chauhan, learned counsel for the petitioner and Mr. S.R. Baruah, learned counsel appearing for the respondent Nos. 1, 2 and 4.

2. The petitioner's case is that the elder brother of the petitioner holds a fair price shop licence under the Assam Public Distribution of Articles Order, 1982 under the Kalaigaon Samabai Samity Ltd in Udalguri district of Assam. The licence of the petitioner's brother, i.e., BH.F&CS-13/2006/52/KLG/18 had been renewed from time to time.

3. The petitioner's counsel submits that the petitioner's elder brother informed the authorities regarding his inability to run the fair price shop any longer due to his personal problem and old age. As such, the petitioner's brother made a request to transfer his fair price shop licence to the petitioner and in this regard, an application was submitted before the Kalaigaon Samabai Samity Ltd. Thereafter, the Kalaigaon Samabai Samity Ltd in its resolution passed on 27.08.2021 resolved that the fair price shop licence should be transferred to the petitioner.

4. The petitioner's counsel submits that the petitioner submitted an application dated 15.03.2022, to the Assistant Director, Food, Civil Supplies & Consumer Affairs, Bhergaon for grant of the fair price shop licence. However, no decision has been made on the petitioner's representation till date. He submits that the writ petition can be disposed of, if a direction is issued to the

respondent Nos. 5 and 7, to take a decision on the petitioner's representation for grant of a fair price shop licence. The petitioner's counsel further submits that the ration card holders, who were earlier tagged with the fair price shop of the petitioner's brother, have now been tagged with other fair price shops.

5. Mr. S.R. Baruah, learned counsel appearing for the respondent Nos. 1, 2 and 4, on the other hand, submits that the respondent Nos. 5 and 7 are the competent authority for granting PDS Retail Licence. Further, the petitioner's application dated 15.03.2022 had been received by the respondent No.5.

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

7. The first question that props up is whether there is any provision for transfer of a fair price shop licence/PDS licence from a brother to a sister. There is nothing brought on record to show that any provision exist, whereby a FPS retail licence or PDS retail licence has to be transferred from one relative to another. The above being said, it appears that the petitioner's brother is no longer running the fair price shop, which he had been running earlier and the ration card holders, who had been availing the articles issued from the petitioner's shop, have now been alleged to be tagged with other fair price shop dealers.

8. The above being said, the fact remains that the petitioner had applied for grant of a fair price shop licence, which is apparently pending with the respondent Nos. 5 and 7. The said representation dated 15.03.2022 not having been decided by the respondent Nos. 5 and 7, the respondent Nos. 5 and 7 are directed to take a decision on the said representation and communicate the

decision to the petitioner. The above direction is subject to the condition that the fair price shop licence that had been initially given in favour of the petitioner's brother has not been allotted to some other person. The petitioner's representation should be decided by the respondent Nos. 5 and 7 within a period of 3(three) months from the date of receipt of a certified copy of this order.

9. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant