

GAHC010234312024



2024:GAU-AS:12057

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

Case No. : WP(C)/6369/2024

GAGAN MAZUMDAR AND 25 ORS
(PHARMACIST REGISTRATION NO.9571)
S/O- LATE MANINDRA MAZUMDAR
R/O- OLD STATE BAZAR, COLONY ROAD, P.O.-TINSUKIA
DIST-TINSUKIA, ASSAM
PIN NO.--786125

2: SRI SUMAN DAS
(AGED ABOUT 52 YEARS)
(PHARMACIST REGISTRATION NO.8934)
S/O- LATE SUKESH RANJAN DAS
R/O-1 NO. ASOMIYA GAON
P.O.- TINGRAI
DIST.-TINSUKIA

PIN NO.-786170
ASSAM

3: SRI SUBRATA PAUL CHOUDHURY
(AGED ABOUT 53 YEARS)
(PHARMACIST REGISTRATION NO.7903)
S/O- LATE INDU BHUSAN PAUL CHOUDHURY
R/O-VILL- BEESAKOPIE
P.O.-DOOM DOOMA
UDALGURI
DIST.-TINSUKIA

PIN NO.-786151
ASSAM.

4: SRI MANOJ KANTI CHANDA
(AGED ABOUT 74 YEARS)
(PHARMACIST REGISTRATION NO.4652)
S/O- LATE DINESH CH. CHANDA

C/O- CHANDA PRITY MEDICAL
ULUBARI
R/O-LACHIT NAGAR AND P.O.-ULUBARI

DIST.-KAMRUP (M)
ASSAM
PIN NO.-781007

5: SRI ASHIT KUMAR DAS
(AGED ABOUT 55 YEARS)
(PHARMACIST REGISTRATION NO.9868)
S/O- LATE LAKHAN CHANDRA DAS
C/O- M/S. LIFE PHARMA
R/O-NO.1 ASOMIYA GAON
P.O.- TINGRAI BAZAR
TINSUKIA
DIST.-TINSUKIA
ASSAM
PIN NO.-786171

6: SRI NARAYAN BHOWMICK
(AGED ABOUT 60 YEARS)
(PHARMACIST REGISTRATION NO.7878)
S/O-LATE NEPAL CH. BHOWMIK
R/O- WEST SREEPURIA PATHAR
P.O.-TINSUKIA
DIST.-TINSUKIA
PIN NO.-786125
ASSAM

7: SRI GOURANGA DEB
(AGED ABOUT 72 YEARS)
(PHARMACIST REGISTRATION NO.9979)
S/O- LATE SATYENDRA KUMAR DEB

R/O-SRIPURIA NEW COLONY

P.O.-TINSUKIA

DIST.-TINSUKIA
ASSAM
PIN NO.-786125

8: SRI RAJIB KR. AGARWAL
(AGED ABOUT 57 YEARS)
(PHARMACIST REGISTRATION NO.9521)
S/O- DR. RAM KR. AGARWAL

R/O-A.T. ROAD
TINSUKIA

P.O.-TINSUKIA
DIST.-TINSUKIA
ASSAM
PIN NO.-786125

9: SRI BIPLOB GHOSH
(AGED ABOUT 51 YEARS)
(PHARMACIST REGISTRATION NO.9402)
S/O- LATE RANJIT CH. GHOSH
R/O- A. M. C. ROAD
DHUBRI

DIST.-DHUBRI
ASSAM
PIN NO.-783323

10: SELIMUL HAQUE
(AGED ABOUT 64 YEARS)
(PHARMACIST REGISTRATION NO.8628)
S/O- LATE DOYTULLAH SK
R/O- HAQUE NAGAR
WARD NO.14
A M CO. ROAD
DHUBRI

DIST.-DHUBRI
ASSAM
PIN NO.-783323

11: SRI BIJON KUMAR GHOSH
(AGED ABOUT 52 YEARS)
(PHARMACIST REGISTRATION NO.8697)
S/O- LATE BIJOY KUMAR GHOSH
C/O- MAYA MEDICOS
LOKHRA ROAD

P.O.- BINOVA NAGAR
DIST.-KAMRUP (M)
PIN NO.-781018
ASSAM

12: ZAHIDUS ZAMAN
(AGED ABOUT 52 YEARS)
(PHARMACIST REGISTRATION NO.8621)
S/O- HASNEY ZAMAL MANDAL

R/O- KHANDAKARPARA
WARD NO. 10

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

13: SRI PRANAY SARMA
(AGED ABOUT 59 YEARS)
(PHARMACIST REGISTRATION NO.8471)
S/O- LATE MONORANJAN SARMA
R/O-SATI NAGAR
WARD NO.13
DHUBRI
P.O.-AMCO ROAD

DIST.-TINSUKIA
PIN NO.-783323
ASSAM

14: SRI ANIL BASAK
(AGED ABOUT 60 YEARS)
(PHARMACIST REGISTRATION NO.8840)
S/O- LATE FATIK CH. BASAK
R/O- VIVEKANANDA ROAD
P.O. AND DIST.-DHUBRI
ASSAM
PIN NO.-783301

15: SRI NIPUL CHANDRA BARMAN
(AGED ABOUT 52 YEARS)
(PHARMACIST REGISTRATION NO.10378)
S/O- LATE KHAGENDRAN NATH BARMAN
C/O- NIRALA MEDICOS
UZAN BAZAR
GUWAHATI-1
DIST.-KAMRUP (M)
ASSAM
PIN NO.-781001

16: . ABDUL MOQUADDEM
(AGED ABOUT 55 YEARS)
(PHARMACIST REGISTRATION NO.8718)
S/O-ABDUL MOQTADIR
A.K. AZAD ROAD
P.O. AND DIST.-DHUBRI
ASSAM
PIN NO.-783301

17: SHRI ANAMITRA PAUL
(AGED ABOUT 76 YEARS)
(PHARMACIST REGISTRATION NO.7740)
S/O- SRI GOPAL CHANDRA PAUL
C/O- BORGANG MEDICAL HALL
P.O.- BORGANG
DIST.-BISWANATH
ASSAM
PIN NO.-784167

18: SRI SUKANTA GHOSE
(AGED ABOUT 45 YEARS)
(PHARMACIST REGISTRATION NO.9440)
S/O- LATE NILKAMAL GHOSE
R/O- NATUN PARA
P.O.-TEZPUR DIST.-SONITPUR

ASSAM
PIN NO.-784001

19: SRI ANJAN MALLICK
(AGED ABOUT 61 YEARS)
(PHARMACIST REGISTRATION NO.9717)
S/O- LATE BALARAM MALLICK
R/O- BARABARI RAILWAY COLONY
DIST.-DIBRUGARH
ASSAM
PIN NO.-782460

20: SRI SANJEEB MAZUMDER
(AGED ABOUT 49 YEARS)
(PHARMACIST REGISTRATION NO.11103)
S/O- LATE BHUPATI MAZUMDER
R/O- SITLABARI
P.O.-DIPHU
DIST.-KARBI ANGLONG
ASSAM
PIN NO.-782460

21: SRI SAMIR RANJAN CHAKRABORTY
(AGED ABOUT 58 YEARS)
(PHARMACIST REGISTRATION NO.11450)
S/O- LATE SUNIL RANJAN CHAKRABORTY
C/O- BIO DRUGS HOSPITAL ROAD
R/O- DIPHU TOWN
P.O.-DIPHU
DIST.-KARBI ANGLONG

ASSAM
PIN NO.-782460

22: SRI RUPAM PAUL
(AGED ABOUT 37 YEARS)
(PHARMACIST REGISTRATION NO.11101)
S/O- DIBYENDU PAUL
R/O- SITLABARI ROAD
P.O.-DIPHU
DIST.-KARBI ANGLONG
ASSAM
PIN NO.-782460

23: SRI LAB CHANDRA DAS
(AGED ABOUT 53 YEARS)
(PHARMACIST REGISTRATION NO.8920)
S/O- LATE NIKHIL CHANDRA DAS
R/O- HERAPATTY
P.O.- HERAPATTY
P.O.- HAIBARGAON
DIST.-NAGAON
ASSAM
PIN NO.-782002

24: MD. MAJIJUR RAHMAN
(AGED ABOUT 58 YEARS)
(PHARMACIST REGISTRATION NO.8994)
S/O- LATE ABDUL RAHIM
R/O- JAMUNAMUKH
P.O.-JAMUNAMUKH
DIST.-NAGAON
ASSAM
PIN NO.-782428

25: SRI DILIP BORAH
(AGED ABOUT 61 YEARS)
(PHARMACIST REGISTRATION NO.8700)
S/O- LATE BAPUKON BORAH
R/O- PURANIGUDAM
P.O.-HALOWAGAON
DIST.-NAGAON

ASSAM
PIN NO.-782141

26: SHRI BAPPA SAHA
(AGED ABOUT 43 YEARS)
(PHARMACIST REGISTRATION NO.9454)

S/O- LATE AMIYA SAHA
R/O- GOSSAIGAON TOWN
WARD NO. 04
P.O. AND P.S.-GOSSAIGAON
DIST.-KOKRAJHAR
ASSAM
PIN NO.-78336

VERSUS

THE ASSAM PHARMACY COUNCIL AND 5 ORS
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)
ASSA

Advocate for the Petitioner : MR. S SARMA, MR. A GOSWAMI,N AHMED,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