

GAHC010239082024



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

Case No. : WP(C)/5902/2024

SHRI SHRI SHIVA GANESH SHANTI DHAM
NALBARI, GANESH MANDIR CHOWK, KATLABARKUXCHI, NALBARI,
ASSAM, REPRESENTED BY ITS SECRETARY SRI BIREN RAJBONGSHI, 53
YEARS, RESIDENT OF KATLABORKUCHI, PO MILANPUR, PS AND DIST
NALBARI, ASSAM 781337

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, GENERAL ADMINISTRATIVE DEPARTMENT, GAD, DISPUR
GUWAHATI 06

2:THE DISTRICT COMMISSIONER
NALBARI
OO THE DISTRICT COMMISSIONER
NALBARI
ASSAM 78133

Advocate for the Petitioner : MR. N BARMAN, MR. S K GOSWAMI, MR. C MAHANTA

Advocate for the Respondent : GA, ASSAM, SC, GAD

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 14-11-2024

Heard Mr. S.K. Goswami, learned counsel for the petitioner; Mr. A. Chaliha,
learned Standing Counsel, General Administration Department [GAD] for the

respondent no. 1; and Ms. S. Konwar, learned Junior Government Advocate, Assam for the respondent no. 2.

2. In view of the limited prayer made in this writ petition by the petitioner and as agreed to by the learned counsel for the respondents, this writ petition is taken up for consideration at the motion stage itself.

3. The petitioner has stated that it is a charitable organization established in the year 1983 for carrying out various religious, charitable and cultural activities and the petitioner organization has also been managing a public temple by raising funds, donations and voluntary contributions. It has been stated on 01.06.2024, the Management Committee of the petitioner organization in a general meeting had adopted a resolution to organize a gift coupon game/draw for the purpose of raising funds for construction activities and to carry out its various religious, charitable and cultural activities for the benefit of the public at large. Pursuant to the said resolution, tickets for the gift coupon game/draw were permitted to be sold @ Rs. 100/- per ticket to the public under the banner of the petitioner organization and originally, the gift coupon game/draw was scheduled to be held on 16.10.2024. The petitioner organization has stated that a large number of tickets have already been sold. When the process of selling tickets for the gift coupon game/draw was being undertaken, it had come to the knowledge of the petitioner organization that in a public interest litigation, PIL no. 29/2024, a Division Bench of this Court, by an Order dated 03.10.2024, had issued direction to the State respondents to take action against any off-line/on-line lotteries found to be organized illegally in the State of Assam. On being aware about the Order dated 03.10.2024, the petitioner organization had

immediately stopped selling tickets for the gift coupon game/draw scheduled to be held on 16.10.2024.

4. After passing of the Order dated 03.10.2024 in PIL no. 29/2024, a number of interlocutory applications including I.A.[Civil] no. 3314/2024, came to be filed before the Division Bench by a number of social organizations who stated that they were involved in various religious, cultural and other social activities for the benefit of the public and for a number of years, they had been organizing lotteries/gift coupon games/draws, etc. at various times, especially, on the eve of Raas festival, Laxmi Puja and Dol Utsaav, etc. in order to encourage participation of the public. In those interlocutory applications, the applicants expressed apprehension that in view of the Order dated 03.10.2024 [supra], the State authorities would not grant them permission to organize lotteries/gift coupon games/draws, etc. at the time of those festivals. With such projections, the applicants made a prayer before the Division Bench to either vacate or modify the Order dated 03.10.2024 to allow them to organize lotteries/gift coupon games/draws at the time of the festivals, and it was claimed that such kind of practice was going on since long.

5. The Division Bench after hearing the applicants in those interlocutory applications did not, however, vacate or modify the Order dated 03.10.2024 passed in PIL no. 29/2024. The Division Bench after hearing the learned counsel for the parties had, however, granted liberty to those applicants to move appropriate representations before the concerned State authorities and disposed of those interlocutory applications including I.A.[Civil] no. 3314/2024, by an Order dated 29.10.2024 with the following observations :-

Having heard the learned counsel for the parties and after going through the contents of the applications, we are of the view that the order dated 03.10.2024, passed by this Court in PIL No. 29/2024 is not liable to be modified or vacated. However, the applicants are at liberty to move appropriate representations before the concerned authorities in the State Government seeking permission to organize lotteries/lucky coupon draws on the eve of the above-referred festivals. If any such application is move by the applicants, it is expected that the concerned authorities in the State Government will consider and decide the same expeditiously, taking into consideration the provisions of The Lotteries (Regulation) Act, 1998 and The Lotteries (Regulation) Rules, 2010.

With the above observations, these Interlocutory Applications stand disposed of.

6. Mr. Goswami, learned counsel appearing for the petitioner organization has submitted that the petitioner organization is a similar kind of organization like the applicants in those interlocutory applications including I.A.[Civil] no. 3314/2024. After passing of the Order dated 29.10.2024 by the Division Bench, the petitioner organization has submitted a Representation before the respondent no. 2 enclosing a copy of the Order dated 29.10.2024 with a prayer to consider its Representation in terms of the said Order. Mr. Goswami has further submitted that as a large number of tickets for the gift coupon game/draw have already been sold, originally scheduled to be held on 16.10.2024, the same had necessitated the petitioner organization to approach the respondent no. 2 to consider its Representation in terms of the observations made by the Hon'ble Division Bench in its Order dated 29.10.2024. As the said Representation dated 01.11.2024 has not yet been considered, the petitioner has approached this Court by this writ petition seeking a direction to the State respondents to consider its Representation dated 01.11.2024 in terms of the

Order dated 29.10.2024.

7. Both Mr. Chaliha and Ms. Konwar have submitted, in unison, that since the petitioner organization has stated that its Representation dated 01.11.2024 is yet to be disposed of and the prayer herein is for a direction to consider the said Representation in terms of the Order dated 29.10.2024, this writ petition can be disposed of at this stage with a direction to the State respondents, more particularly, the respondent no. 2 to take the Representation dated 01.11.2024 of the petitioner organization on board and thereafter, to consider the same in terms of the observations made and directions given in the Order dated 29.10.2024 by passing a speaking order.

8. In view of the broad consensus arrived at the Bar in the afore-stated manner and taking into consideration the limited prayer made in this writ petition, this writ petition is disposed of with a direction to the respondent no. 2 to take the Representation dated 01.11.2024, stated to have been submitted by the petitioner organization on 01.11.2024 before him, on board and thereafter, to consider the case of the petitioner on its own merits and in terms of the Order dated 29.10.2024 including the provisions of The Lotteries [Regulation] Act, 1998 and The Lotteries [Regulation] Rules, 2010 and to dispose of the Representation by a speaking order, as expeditiously as possible.

9. This order disposes of the writ petition.

JUDGE

Comparing Assistant