

GAHC010284092023



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

Case No. : WP(C)/7414/2023

RAJOSHREE BHUYAN NATH AND ANR
W/O SRI GOBIN NATH, SECRETARY, BUWARI SELF HELP GROUP, VILL-
DAKHIN KANDURA, HOJAI, P.O.-SHANKAR DEV NAGAR, P.S.-LANKA,
DIST-HOJAI, ASSAM

2: BUWARI SELF HELP GROUP
VILL-DAKHIN KANDURA
HOJAI
P.O.-SHANKAR DEV NAGAR
P.S.-LANKA
DIST-HOJAI
ASSA

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY, GOVT. OF ASSAM, DEPARTMENT OF
FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS, ASSAM SECRETARIAT,
DISPUR, ASSAM

2:THE DIRECTOR
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
BHANGAGARH
GUWAHATI
ASSAM
PIN-781005

3:THE DISTRICT COMMISSIONER
HOJAI
ASSAM
PIN-782442

4:THE ASSISTANT DIRECTOR

FOOD
PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS
HOJAI
ASSAM

5:THE INSPECTOR
FOOD
PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS
HOJAI
ASSA

For the Petitioner(s) : Mr. B.J. Mukherjee, Advocate

For the Respondent(s) : Mr. K. Gogoi, Govt. Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 25.11.2024

Heard Mr. B.J. Mukherjee, the learned counsel appearing on behalf of the petitioner. Mr. K.Gogoi, the learned Government Advocate appears on behalf of the respondent Nos. 1 to 5.

2. The petitioner herein is aggrieved by the prolonged suspension of the petitioner's license which is contrary to the mandate of Clause 15 of the Assam Public Distribution of Articles Order, 1982 (for short 'the Order of 1982') .

3. From the materials on record it reveals that vide an order dated 08.07.2022, the respondent No. 4 had suspended the license of the petitioner under Clause 15 of the Order of 1982. It is seen that there was a show cause notice thereupon issued on 12.10.2023, and the petitioner submitted his reply on 16.10.2023.

4. The record further reveals that till date nothing has been done in respect

to the said proceedings so initiated and the petitioner license had been kept under suspension. It is seen that pursuant to the filing of the writ petition the affidavit-in-opposition had been filed wherein it has been mentioned that a FIR has been filed against the petitioner in the local Police Station on 26.07.2022 and as such in view of the said FIR being lodged the suspension had been continued. It is further stated that the petitioner has also been charge sheeted, pursuant to the FIR and there is a proceedings pending before the Sub Divisional Judicial Magistrate Court, Hojai.

5. This Court has duly heard the learned counsel appearing on behalf of the petitioner as well as the learned counsel appearing on behalf of the respondents.

6. From a perusal of Clause 15 of the Order of 1982, it appears that the period of suspension is limited to 90(ninety) days. Under such circumstances, the question of continuation of a suspension beyond the period prescribed in Clause 15 is not permissible as per the mandate of the said provisions.

7. This Court has also duly taken note of that an enquiry was conducted also in terms with Clause 15 of the Order of 1982 by issuance of a show cause notice and a reply also had been filed as far back as on 16.10.2023. However, nothing has been done by the Respondent Authorities.

8. This Court upon hearing the learned counsels and upon perusal of the materials is of the opinion that the continuation of the suspension beyond the period of 90(ninety) days being in the teeth of Clause 15 of the Order of 1982 requires interference.

9. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The prolonged suspension of the petitioner beyond a period of 90(ninety) days from 08.07.2022 is bad in law and accordingly stands interfered with.

(ii) The respondents herein are directed to complete the said proceedings so initiated under Clause 15 of the Order of 1982, wherein show cause notice and reply have been also filed, within a period of 20(twenty) days from the date of the instant order. While doing so the petitioner be given an opportunity of hearing. Further the respondent No. 4 shall pass a speaking order.

10. With the above observations and directions the instant writ petition stands disposed of.

JUDGE

Comparing Assistant