

GAHC010006952022



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

Case No. : WP(C)/373/2022

HASANUR ZAMAN AND 2 ORS
S/O- BZLUL BASIT, R/O- VILLAGE CHALASHERSHOW, P.O- B.K
SHERSHOW, DIST- DHUBRI, ASSAM ,PIN-783330

2: MARFAT ALI
S/O- ABU BAKKAR SIDDIQUE

R/O- VILLAGE BASHMUA (B.K. SHERSHOW)

P.O- B.K. SHERSHOW
DIST- DHUBRI
ASSAM

PIN-783330

3: FOTIK ALI
S/O- LATE NASHER ALIT
R/O- VILLAGE CHATLARAPA
HAJIPARA P.O- BAUSKATA
DIST- DHUBRI
ASSAM
PIN-78312

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, FOOD AND CIVIL
SUPPLIES AND CONSUMER AFFAIRS, DEPARTMENT, DISPUR, GUWAHATI-
06

2:THE DIRECTOR
OF FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
BHANGAGARH

GUWAHATI-05

3:THE DEPUTY COMMISSIONER
DHUBRI
DIST- DHUBRI
ASSAM
PIN-783301

4:THE DEPUTY DIRECTOR
FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS
DHUBRI
ASSAM
PIN-783301

5:THE ASSISTANT REGISTRAR
OF COOPERATIVE SOCIETIES
HATSINGIMARI
DIST- SOUTH SALMARA
MANKACHAR
ASSAM
PIN-783301

6:THE BAUSKATA RAVATARY SS LTD.
REP. BY ITS CHAIRMAN
P.O- RAVATARY DISTRICT- DHUBRI
ASSAM
PIN-78312

Advocate for the Petitioner : MR. B RAHMAN

Advocate for the Respondent : SC, CO OP

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

21.01.2022

Heard Mr. B. Rahman, learned counsel for the petitioners and Mr. D. Nath, learned senior Government Advocate, Assam for the respondent Nos. 1 to 4. Also heard Mr. G. Bordoloi, learned Standing Counsel, Cooperative Department for the respondent No. 5.

The Bauskata Ravatary Samabai Samiti Ltd. in its meeting held on 03.09.2021

resolved to allow three more fair price shops within its jurisdiction for distribution of PDS articles under it in the name of the petitioners with the resolution that the concerned Assistant Registrar of Cooperative Societies, Hatsingimari shall give its approval for such fair price shops in favour of the petitioners. The concerned Assistant Registrar of Cooperative Societies, Hatsingimari on 16.09.2021 approved the said resolution of Bauskata Ravatary Samabai Samiti Ltd. dated 03.09.2021 and by the communication dated 16.09.2021 it wrote to the Deputy Director, Food, Civil Supplies and Consumer Affairs of Dhubri to issue new PDS Licences in favour of the petitioners. As the respondents in the Director of Food, Civil Supplies and Consumer Affairs of Dhubri have not yet issued any such PDS Licences to the petitioners as per recommendation of the Bauskata Ravatary Samabai Samiti Ltd. dated 03.09.2021 which was approved by the concerned Assistant Registrar of Cooperative Societies, Hatsingimari, the petitioners being aggrieved have preferred this writ petition.

Mr. D. Nath, learned senior Government Advocate, Assam appearing for the State respondents clarified that any such decision regarding issuance of fair price shops for distribution of PDS articles within the particular area is to be taken only by the authorities in the Directorate of Food, Civil Supplies and Consumer Affairs of the State and not on the basis of any such recommendation of Samabai Samiti approved by the Registrar at Assistant Registrar of Cooperative Societies since the distribution of PDS articles is within the jurisdiction of the concerned Deputy Commissioner under Assam Public Distribution of Articles Orders 1982.

Issue notice, returnable by **04.03.2022** .

As Mr. D. Nath, learned senior Government Advocate, Assam and Mr. G. Bordoloi, learned Standing Counsel, Cooperative Department have accepted notice on behalf of the respondent Nos. 1 to 4 and 5 respectively, no formal notice need be issued to those respondents.

The petitioners shall serve requisite extra copies of this petition along with the annexures appended thereto to Mr. D. Nath, learned senior Government Advocate, Assam and Mr. G. Bordoloi, learned Standing Counsel, Cooperative Department on or

before 25.01.2022, obtaining necessary acknowledgment from them in that regard.

The petitioners shall take steps for service of notice on the respondent No. 6 by registered post with A/D on or before 25.01.2022, providing its proper and correct address with requisite postal stamps.

In addition to the above, the petitioners shall also take steps on the respondent No.6 by dasti/personal service to be routed through the Registry of this Court.

Such dasti/personal service shall be made on the said respondent by serving a copy of this writ petition including the Annexures appended thereto, obtaining necessary acknowledgment from it with date, in presence of one or more witnesses. Thereafter, the petitioners shall file an affidavit towards completion of such dasti/personal service on the respondent No. 6.

It is made clear that the respondents in the Food, Civil Supplies and Consumer Affairs Department of the State shall issue such Fair Price Shop Licences in terms of the Assam Public Distribution of Articles Orders 1982 for distribution of PDS articles and if the petitioners are entitled for any such licences as per the provisions of the said 1982 Rules and Orders, the respondents in the Food, Civil Supplies and Consumer Affairs Department of the State shall consider the case of the petitioners.

Pendency of this writ petition shall not be a bar for consideration of the case of the petitioners.

JUDGE

Comparing Assistant