

GAHC010182992025



2026:GAU-AS:2882

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

Case No. : WP(C)/4988/2025

MS DAKSIN TITAPANI SAMABAI SAMITI LTD AND ORS
REPRESENTED BY ITS CHAIRMAN NAMELY, ARIFUL ISLAM SIKDER, AGE
24 YEARS, S/O LATE AMIR HUSSAIN SIKDER, VILL- BARBHITA, P.O.-
CHANDAMAMA, DIST- BARPETA, ASSAM, PIN-781321

2: ARIFUL ISLAM SIKDER
S/O LATE AMIR HUSSAIN SIKDER
VILL- BARBHITA
P.O.-CHANDAMAMA
DIST- BARPETA
ASSAM
PIN-781321

3: ABDUS SOBUR AHMED
S/O BISHA SHEIKH
SECRETARY OF M/S DAKSIN TITAPANI SAMABAI SAMITI LTD
R/O VILL- BARBHITA
P.O.-CHANDAMAMA
DIST- BARPETA
ASSAM
PIN-78132

VERSUS

THE STATE OF ASSAM AND ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM, FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR

FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
BHANGAGARH
GUWAHATI-5

3:THE DISTRICT MAGISTRATE BARPETA

O/O THE DISTRICT COMMISSIONER
BARPETA
DIST-BARPETA (ASSAM)
PIN-781301

4:THE ADDL. DISTRICT COMMISSIONER

BARPETA
DIST- BARPETA (ASSAM)
PIN-781301

5:THE REGSITRAR OF COOPERATIVE SOCIETIES

ASSAM
KHANAPARA
GUWAHATI-781022

6:THE DEPUTY REGISTRAR
COOPERATIVE SOCIETIES

BARPETA
DIST- BARPETA (ASSAM)
PIN-781301

7:THE ASSISTANT REGISTRAR
COOPERATIVE SOCIETIES

BARPETA
DIST-BARPETA (ASSAM)
PIN-781301

8:THE AREA OFFICER-CUM-SUB-INSPECTOR

FOOD CIVIL SUPPLIES AND CONSUMER AFFAIRS
BARPETA
DIST- BARPETA (ASSAM)
PIN-78130

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. P. K. Roychoudhury, Advocate
For the Respondent(s) : Mr. M. Chetia, Government Advocate
: Mr. R. B. Goswami, Standing Counsel

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **19.02.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. P. K. Roychoudhury, the learned counsel appearing on behalf of the Petitioners and Mr. M. Chetia, the learned Government Advocate appearing on behalf of the Respondent Nos. 1, 2, 3, 4 and 8. I have also heard Mr. R. B. Goswami, the learned Standing counsel appearing on behalf of the Respondent Nos. 5, 6 and 7.

2. The Petitioner No.1 herein which is the Cooperative Society is aggrieved by the order dated 10.07.2023 by which the Petitioner No.1's license was suspended in terms with Clause 15(1) of the Assam Public Distribution of Articles Order, 1982 (for short 'the Order of 1982') and the subsequent cancellation dated 02.08.2025.

3. It was informed at the Bar that though the cancellation order was passed on 02.08.2025, but subsequently, the District Commissioner, Barpeta has withdrawn the said order on 19.11.2025 inasmuch as the cancellation order was passed on 02.08.2025 without notice of the interim order passed by this Court on 27.01.2025 in WP(C) No.5772/2024.

4. Mr. P. K. Roychoudhury, the learned counsel appearing on behalf of the Petitioners submitted that as there is no cancellation order, the continuation of the suspension beyond a period of 90 days is contrary to Clause 15(2) of the Order of 1982.

5. On the other hand, Mr. M. Chetia, the learned Government Advocate appearing on behalf of the Respondent Nos. 1, 2, 3, 4 and 8 submitted that the Petitioner No.1 was issued a Show Cause Notice on 27.11.2024 and a reply was submitted on 04.12.2024. Thereupon, a hearing was conducted by the Executive Magistrate, Barpeta and the defence so set up by the Petitioner No.1 was not found satisfactory and as such the Executive Magistrate proposed cancellation of the sub-wholesale license of the Petitioners. Accordingly, the sub-wholesale license issued to the Petitioners was cancelled vide an order dated 02.08.2025 without noticing that there was an interim order not to take coercive action against the

Petitioners. He therefore submitted that taking into account that the Petitioner No.1 has already been issued a show Cause Notice and the Petitioner has filed the reply, the Respondent Authorities may be permitted to proceed with the adjudication.

6. Replying to the same, Mr. P. K. Roychoudhury, the learned counsel appearing on behalf of the Petitioners submitted that the Petitioners should be given an opportunity of personal hearing taking into account that the Petitioners had submitted the Show Cause Reply along with certain documents which the Petitioners would like to explain before the authority adjudicating as to whether the Petitioners' license is required to be cancelled or not. He further submitted that the hearing should be conducted by the District Commissioner, Barpeta or the Co-District Commissioner, Barpeta but not Executive Magistrate, Barpeta taking into account that the said official had already framed up his mind. He further submitted that the continuation of the suspension cannot also be permitted in view of Clause 15(2) of the Order of 1982.

7. Upon hearing the learned counsels for the parties, it is the opinion of this Court that the instant writ petition can be disposed of at this stage thereby directing the Respondent Authorities more particularly the District Commissioner or his delegatee who shall

not be an Officer below the rank of Co-District Commissioner to decide as to whether the Petitioners' license is required to be cancelled or not.

8. It is also very pertinent to observe that it is a settled proposition of law that a continuation of suspension beyond 90 days is not in accordance with Clause 15(2) of the Order of 1982. It is also relevant to take note of that in view of the pendency of the instant writ petition, the concerned Respondent authorities have not taken any decision in respect to the Show Cause proceedings initiated against the Petitioners.

9. Accordingly, this Court therefore disposes of the instant writ petition with the following observations and directions:

(i) The District Commissioner, Barpeta or the Co-District Commissioner, Barpeta is directed to dispose of the Show Cause proceedings so initiated against the Petitioners for cancellation of their license.

(ii) This Court directs the Petitioners to appear before the Office of the District Commissioner, Barpeta on 27.02.2026. On the said date, the District Commissioner, Barpeta shall fix a date for personal hearing of the Petitioners.

(iii) The District Commissioner, Barpeta or the Co-District Commissioner, Barpeta, if the case is endorsed to the latter by the former for disposal after giving the Petitioners an opportunity of personal hearing dispose of the Show Cause proceedings so initiated against the Petitioners by passing a Speaking Order. It is further observed that on the date on which the Petitioners are to appear as fixed hereinabove i.e. on 27.02.2026, the Office of the District Commissioner, Barpeta or the Co-District Commissioner, Barpeta shall provide the Enquiry Report on the basis of which Show Cause proceedings have been initiated against the Petitioners as the same would provide an opportunity to the Petitioners to defend themselves.

(iv) The entire proceedings be completed within a period of 45 days from today.

(v) Mr. P. K. Roychoudhury, the learned counsel appearing on behalf of the Petitioners gives an undertaking that the Petitioners would not cause any delay in the hearing of the said proceedings.

(vi) It is further observed that in the circumstance, within a period of 45 days from today, no order is being passed on the said Show Cause proceedings by the District Commissioner, Barpeta or the

Co-District Commissioner, Barpeta as the case may be, the said authorities cannot continue with the suspension of the license of the Petitioners.

**Bijoy
Saha**

Digitally signed
by Bijoy Saha
Date: 2026.02.25
16:19:45 +05'30'

JUDGE

Comparing Assistant