

GAHC010233582023



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

Case No. : WP(C)/6053/2023

RAKESH SINGH
S/O LATE RANA PRATAP SINGH, R/O VILL-LABAKPUR PART-II, P.O.-
PAILAPOOL, P.S.-LAKHIPUR, DIST-CACHAR, ASSAM, PIN-788004

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, FOOD AND
CIVIL SUPPLIES DEPARTMENT, DISPUR, GUWAHATI, KAMRUP (M)-6,
ASSAM

2:THE DIRECTOR
FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT
GUWAHATI
KAMRUP (M)
ASSAM
PIN-781005

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR
ASSAM
788001

4:SMTI. JUNALI DEVI (ACS)
ASSISTANT COMMISSIONER CUM EXECUTIVE MAGISTRATE
CACHAR
SILCHAR
DIST- CACHAR
ASSAM
PIN-788001

5:THE SUB-DIVISIONAL OFFICER (CIVIL)
DEPARTMENT OF FOOD AND CIVIL SUPPLIES
LAKHIPUR SUB-DIVISION
LAKHIPUR
P.O. AND P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

6:THE SUPERINTENDENT
FOOD AND CIVIL SUPPLIES
LAKHIPUR SUB-DIVISION
LAKHIPUR
P.O. AND P.S.-LAKHIPUR
DIST-CACHAR
ASSAM

7:THE INSPECTOR
FOOD AND CIVIL SUPPLIES
LAKHIPUR SUB-DIVISION
LAKHIPUR
P.O. AND P.S.-LAKHIPUR
DIST- CACHAR
ASSA

Advocate for the Petitioner : MR. B J GHOSH

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

11.10.2023

Mr. B.J. Ghosh, learned counsel for the petitioner has submitted that the respondent no. 4 on 05.10.2023, had made a search and seized books of accounts, articles, registers, etc. including one set of keys pertaining to the godown maintained by the petitioner as a Fair Price Shop [FPS] Dealer to keep articles under the Control Orders framed under the Essential Commodities Act, 1955, from the FPS run by the petitioner. Mr. Ghosh has contended that Clause 31[2] of the Assam Public Distribution of Articles [APDA] Order, 1982 and Rule 10[4] of the Public Distribution System [Control] Order, 2001 have clearly prescribed that such

search and seizure are to be made as per the provisions of Section 100 of the Code of Criminal Procedure [CrPC], 1973, meaning thereby, there must be two independent witnesses at the time of search and seizure. But in the case in hand, search and seizure were made in violation of the prescribed procedure.

Mr. M. Chetia, learned Junior Government Advocate, Assam appearing for the respondent nos. 1, 2, 3, 5, 6 & 7 has prayed for a week's time to obtain necessary instructions.

List the case on 18.10.2023.

Having regard to the projections made on behalf of the petitioner, it is observed that the respondent authorities shall not take any coercive action against the petitioner till the next date of listing.

JUDGE

Comparing Assistant