

GAHC010235862024



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

Case No. : WP(C)/5803/2024

BARDAMAL GPSS LTD AND 22 ORS
REPRESENTED BY ITS SECRETARY MOFIDUL ISLAM,
AGED ABOUT 49 YEARS,
RESIDENT OF VILLAGE AND P.O.- BARDAMAL,
P.S.- AGIA, DISTRICT- GOALPARA,
ASSAM, PIN- 783120.

2: KRISHNAI GPSS LTD.
REPRESENTED BY ITS CHAIRMAN MOIJUDDIN SHEIKH
AGED ABOUT 62 YEARS
RESIDENT OF VILLAGE
P.O. AND P.S.- KRISHNAI
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783126

3: DODAN GPSS LTD.
REPRESENTED BY ITS SECRETARY JOGENDRA CHANDRA RABHA
AGED ABOUT 48 YEARS
RESIDENT OF VILLAGE- BAIDA
P.O.- JURIGAON
P.S.- LAKHIPUR
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783120

4: BALIJANA GPSS LTD.
REPRESENTED BY ITS CHAIRMAN SUKDHAN RABHA
AGED ABOUT 53 YEARS
SON OF LATE DHANESWAR RABHA
RESIDENT OF VILLAGE
P.O. AND P.S.- AGIA
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783120

5: JOYRAMKUCHI GPSS LTD.

REPRESENTED BY ITS CHAIRMAN DEBCHARAN RABHA
AGED ABOUT 53 YEARS
RESIDENT OF VILLAGE- THARKO
P.O.- PANICALI
P.S.- LAKHIPUR
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783129

6: GURIADHAP GPSS LTD.
REPRESENTED BY ITS SECRETARY AKSADUR RAHMAN
AGED ABOUT 58 YEARS
RESIDENT OF VILLAGE AND P.O.- DHUMERGHAT
P.S.- LAKHIPUR
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783330

7: CHUNARI GPSS LTD.
REPRESENTED BY ITS SECRETARY NOZRUL ISLAM
AGED ABOUT 39 YEARS
RESIDENT OF VILLAGE AND P.O.- CHUNARI
P.S.- LAKHIPUR DISTRICT- GOALPARA
ASSAM. PIN NO.- 783129

8: GOALPARA WHOLESALE LTD.
REPRESENTED BY ITS SECRETARY AMINUL HOQUE
AGED ABOUT 57 YEARS
RESIDENT OF- GOALPARA TOWN
WARD NO.- 3
P.O. AND P.S.- GOALPARA SADAR
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783101

9: FAIR PRICE DEALER CARRIAGE AND CONTRACT CO-OPERATIVE
SOCIETY LTD.
REPRESENTED BY ITS SECRETARY AMINUL HUSSAIN
AGED ABOUT 62 YEARS
RESIDENT OF- GOALPARA TOWN
WARD NO.- 3
P.O. AND P.S.- GOALPARA SADAR
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783101

10: JALESWAR GPSS LTD.
REPRESENTED BY ITS SECRETARY ABDUN NUR MOLLAH
AGED ABOUT 57 YEARS
RESIDENT OF VILLAGE AND P.O.- JALESWAR
P.S.- LAKHIPUR
DISTRICT- GOALPARA

ASSAM. PIN NO.- 783132

11: JAKHILI GPSS LTD.
REPRESENTED BY ITS SECRETARY ANANDA RAM BARMAN
AGED ABOUT 38 YEARS
RESIDENT OF VILLAGE AND P.O.- DHAIGAON
P.S.- KRISHNAI
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783126

12: RANGJULI GPSS LTD.
REPRESENTED BY ITS CHAIRMAN SAHADEV RABHA
AGED ABOUT 49 YEARS
RESIDENT OF VILLAGE
P.O. AND P.S.- RANGJULI
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783130

13: DUDHNAI GPSS LTD.
REPRESENTED BY ITS SECRETARY GUNADHAR RABHA
AGED ABOUT 57 YEARS
RESIDENT OF VILLAGE
P.O. AND P.S.- DUDHNAI
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783124

14: DHANUBHANGA GPSS LTD.
REPRESENTED BY ITS SECRETARY TIRTHALLOCHAN KACHARY
AGED ABOUT 55 YEARS
RESIDENT OF VILLAGE AND P.O.- DHANUBHANGA
P.S.- DHUPDHARA
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783130

15: BIKALI GPSS LTD.
REPRESENTED BY ITS SECRETARY JAGADISH BASUMATARY
AGED ABOUT 46 YEARS
RESIDENT OF VILLAGE
P.O. AND P.S.- DHUPDHARA
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783123

16: TAKIMARI GPSS LTD.
REPRESENTED BY ITS CHAIRMAN MONIR UDDIN AHMED
AGED ABOUT 46 YEARS
RESIDENT OF VILLAGE AND P.O.- TAKIMARI
P.S.- LAKHIPUR
DISTRICT- GOALPARA

ASSAM. PIN NO.- 783129

17: KALSABHANGA RAWKHOWA GPSS LTD.
REPRESENTED BY ITS SECRETARY JAHIRUL ISLAM MANDAL
AGED ABOUT 43 YEARS
RESIDENT OF VILLAGE AND P.O.- RAWKHOWA
P.S.- CHUNARI
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783129

18: BAGUAN GPSS LTD.
REPRESENTED BY ITS SECRETARY PIAR ALI
AGED ABOUT 35 YEARS
RESIDENT OF VILLAGE
P.O. AND P.S.- BAGUAN
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783129

19: JHUNKAIPARA GPSS LTD.
REPRESENTED BY ITS SECRETARY SHAMIM HASSAN
AGED ABOUT 28 YEARS
RESIDENT OF VILLAGE- JHUNKAIPARA
P.O.- SIMLABARI
P.S.- BAGUAN
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783101

20: BODAHAPUR GPSS LTD.
REPRESENTED BY ITS SECRETARY MAHENDRA RAY
AGED ABOUT 61 YEARS
RESIDENT OF VILLAGE AND P.O.- BODAHAPUR
P.S.- AGIA
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783120

21: SRI SRI SURJYAGIRI GPSS LTD.
REPRESENTED BY ITS SECRETARY AFIZ UDDIN AHMED
AGED ABOUT 73 YEARS
RESIDENT OF VILLAGE AND P.O. DUBAPARA
P.S.- MORNAI
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783101

22: SIDHABARI GPSS LTD.
REPRESENTED BY ITS SECRETARY SUSHIL KUMAR NATH
AGED ABOUT 57 YEARS
RESIDENT OF VILLAGE- SIDHABARI
P.O.- BAKAITARI

P.S.- MATIA
DISTRICT- GOALPARA
ASSAM. PIN NO.- 783125

23: DALGOMA GPSS LTD.
REPRESENTED BY ITS SECRETARY AZIZUL HOQUE
AGED ABOUT 49 YEARS
RESIDENT OF VILLAGE- BUDUCHAR
P.O.- DALGOMA
P.S.- MATIA
DISTRICT- GOALPARA
ASSAM. PIN NO.- 78312

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY SECRETARY TO THE DEPARTMENT OF FOOD, CIVIL
SUPPLIES AND CONSUMER AFFAIRS,
SHASTRI BHAWAN, NEW DELHI. PIN- 110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER TO THE GOVT. OF ASSAM
DEPARTMENT OF FOOD
PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS
DISPUR
GUWAHATI- 781006

3:THE COMMISSIONER OF FOOD
PUBLIC DISTRIBUTION
CONSUMER AFFAIRS AND LEGAL METROLOGY
ASSAM
ULUBARI
GUWAHATI- 07.

4:THE SECRETARY TO THE GOVT. OF ASSAM
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
GUWAHATI- 781006
DISTRICT- KAMRUP (M)
ASSAM

5:THE DIRECTOR OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
ASSAM
BHANGAGARH
GUWAHATI- 781005
DISTRICT- KAMRUP (M)

ASSAM

6:THE DISTRICT COMMISSIONER CUM DEPUTY COMMISSIONER
GOALPARA
P.S. AND DISTRICT- GOALPARA
ASSAM. PIN- 783101

Advocate for the Petitioner : MR H R A CHOUDHURY, MR. A CHOUDHURY,MR S ISLAM,MS. A KAUSHAR

Advocate for the Respondent : DY.S.G.I., GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

11.11.2024

Heard Mr. H. R. A. Choudhury, learned Senior Counsel, assisted by Mr. S. Islam, learned counsel for the petitioners.

2. The petitioners case is that the State respondents cannot employ private transporters/contractors for lifting and transportation of essential commodities from the Food Corporation of India's storage depot to the godowns and to the fair price shops, pursuant to the NIT dated 24.10.2024, as the same is in violation of the Order 7(1), 7(11), 8(1) and 8(3) of the Targeted Public Distribution System (Control) Order, 2015 read with Order 2(g) of the Targeted Public Distribution System (Control) Order, 2015. The petitioner's counsel submits that the same is also in violation of Section 24(2)(a) of the National Food Security Act, 2013.

3. He further submits that similar matters had been decided by a Single Bench of this Court, the lead case being WP(C) 6647/2015, wherein the petitioners therein, who were similarly placed as the petitioner herein, had made a challenge to the decision of the State Government to engage private parties as transporters, for transportation of

PDS articles to the fair price shops in terms of the Targeted Public Distribution System (Control) Order, 2015. The Single Bench, vide judgment and order dated 21.09.2017, dismissed the writ petitions. However, a challenge was made to the same by way of a writ appeal being W.A. No.249/2018. Thereafter, the Division Bench, vide order dated 03.09.2018 passed in W.A. No.249/2018, had directed that the writ petitioners/appellants were to continue lifting and distributing food grains from the designated depots. Further, status quo was directed to be maintained in respect of the existing system of distribution of PDS commodities in so far as transportation of PDS commodities was concerned, till a final decision was made in the appeal.

4. Issue notice, returnable in 4(four) weeks.

5. Mr. K. Gogoi, learned counsel accepts notice on behalf of the respondent No. 1, while Mr. G. Bokalia, learned counsel accepts notice on behalf of the respondent No. 2 to 6.

6. On a perusal of the contents of the petition, this Court finds that the issue to be decided is pending before the Division Bench of this Court in W.A. No.297/2018, W.A. No.240/2018, W.A. No.249/2018 and W.A. No.12/2018.

7. In view of the Division Bench of this Court in W.A. No.249/2018 directing that the lifting and distribution of food grains from the designated depots should be carried out as per the existing system of distribution, this Court is of the view that the NIT dated 24.10.2024 cannot be acted upon, till a decision is taken by the Division Bench of this Court in the above mentioned writ appeals.

8. List the matter after **4(four) weeks**.

JUDGE

Comparing Assistant