

GAHC010024192024



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

Case No. : WP(C)/968/2024

SUCHITRA GOSWAMI AND 23 ORS
PHARMACIST REGISTRATION NO.7877, 32(B)
(AGED ABOUT 55 YEARS)
D/O- LATE L.C. GOSWAMI
R/O- HOUSE NO.85, LACHITNAGAR,
DIST.-KAMRUP (M)
PIN NO.-781007
ASSAM.

2: SHRI NABA KUMAR SARMA
PHARMACIST REGISTRATION NO. 9674
32(B)
(AGED ABOUT 59 YEARS)
S/O- LATE NARAYAN CHNADRA SARMA
R/O-RANGIA TOWN
P.O. and P.S.-RANGIA
DIST.-KAMRUP
PIN NO.-781354
ASSAM

3: SHRI RAKHAL DEBNATH
PHARMACIST REGISTRATION NO.11078
32(B)
(AGED ABOUT 44 YEARS)
S/O-LATE BISWAMBAR DEBNATH
R/O- DIPHU
P.O.-DIPHU
DIST.-KARBI ANGLONG
PIN NO.-782460
ASSAM

4: SHRI RABINDRA CHANDRA DUTTA
PHARMACIST REGISTRATION NO.7732
32(B)

(AGED ABOUT 76 YEARS)
S/O LATE SURESH CHANDRA DUTTA
R/O- R.K. ROAD
P.O.-NAGAON

DIST.-NAGAON
PIN NO.-782001
ASSAM

5: SHRI RAJDEEP DUTTA
PHARMACIST REGISTRATION NO.11366
32(B)
(AGED ABOUT 46 YEARS)
S/O- LATE GANESH CHANDRA DUTTA
R/O- N. AHMED ROAD

DACCAPATTY
DIST.-NAGAON
PIN NO.-782001
ASSAM

6: SHRI SANJIT KUMAR SHILL
PHARMACIST REGISTRATION NO.9123
32(B)
(AGED ABOUT 77 YEARS)
S/O-LATE KSHITISH CHANDRA SHILL
R/O- MILL ROAD
WARD NO.07

P.O.-RANGIA
DIST.-KAMRUP (M)
PIN NO.-781354

7: SHRI PARIMAL KUMAR GHOSH
PHARMACIST REGISTRATION NO.7844
32(B)
(AGED ABOUT 76 YEARS)
S/O-LATE JATINDRA KR. GHOSH
C/O- M/S. POPULAR DRUG HOUSE

R/O-D.K. ROAD
GOSSAIGAON

P.O. and DIST.-KOKRAJHAR
PIN NO.-783360
B.T.C.
ASSAM

8: SHRI RAJ CHANDRA NATH
PHARMACIST REGISTRATION NO.8474
32(B)
(AGED ABOUT 60 YEARS)
S/O RADHIKA RANJAN NATH
C/OJOY GURU MEDICAL HALL
P. .DIPHU
DIST.KARBI ANGLONG
PIN NO.782460
ASSAM

9: SHRI MALAY GHOSH
PHARMACIST REGISTRATION NO.7317
32(B)
(AGED ABOUT 65 YEARS)
S/O-LATE MANORANJAN GHOSH
C/O- TAPAN MEDICAL CENTRE
R.N.B. ROAD

P.O. and DIST.-KOKRAJHAR
PIN NO.-783370
B.T.C
ASSAM.

10: SHRI PRADIP MAZUMDAR
PHARMACIST REGISTRATION NO. 8215
32(B)
(AGED ABOUT 57 YEARS)
S/O- LATE NARENDRA MAZUMDAR

SHIVBARI ROAD
P.O-DIPHU
DIST.-KARBI ANGLONG
PIN NO.-782460
ASSAM.

11: SHRI NIMAI CHANDRA DAS
PHARMACIST REGISTRATION NO.11774
32(B)
(AGED ABOUT 53 YEARS)
S/O-LATE HEJU RAM DAS
VILL- BORDONKA
P.O-DONKA MOKAM
DIST.-KARBI ANGLONG
PIN NO.-782485
ASSAM

12: SHRI RAJESH ACHARJEE

PHARMACIST REGISTRATION NO. 9487
32(B)
(AGED ABOUT 43 YEARS)
S/O- RAMAPADA ACHARJEE
R/O-LUMDING
B.M.B. SCHOOL ROAD

LUMDING
DIST.-NAGAON
PIN NO.-782447
ASSAM

13: SHRI SUBRATA PAUL
PHARMACIST REGISTRATION NO. 11203
32(B)
(AGED ABOUT 58 YEARS)
S/O- LATE SAMARENDRA PAUL
R/O- RAM KRISHNA ROAD
P.O. and DIST.-NAGAON
PIN NO.-782001
ASSAM

14: SHRI PRASANTA DAS
PHARMACIST REGISTRATION NO.7923
32(B)
(AGED ABOUT 54 YEARS)
S/O- PARESH CHANDRA DAS
C/O- M/S UNIVERSAL MEDICAL STORES
PALTAN BAZAR
G.S. ROAD

DIST.-KAMRUP (M)
PIN NO.-781008
ASSAM

15: SHRI SUBHASH DEY
PHARMACIST REGISTRATION NO.5197
32(B)
(AGED ABOUT 71 YEARS)
S/O- LATE MANMOHAN DEY
C/O-LABANYA MEDICAL
R/O-BISHNU RABHA NAGAR

HOUSE NO.24
NOONMATI

DIST.-KAMRUP (M)
PIN NO.-781020

ASSAM

16: SHRI PRADIP BHADRA
PHARMACIST REGISTRATION NO.8961
32(B)
(AGED ABOUT 56 YEARS)
S/O- SUBHASH BHADRA
R/O VILL J.N. ROAD
P.O. and DIST.-GOALPARA
PIN NO.783101
ASSAM

17: SHRI TAPASH BHOWAL
PHARMACIST REGISTRATION NO.8694
32(B)
(AGED ABOUT 55 YEARS)
S/O-LATE KALACHAND BHOWAL
R/O-B. BARUA ROAD
AMOLAPATTY
P.O. and DIST.-NAGAON
PIN NO.-782001
ASSAM

18: SHRI MRINAL SAMADDER
PHARMACIST REGISTRATION NO.9673
32(B)
(AGED ABOUT 52 YEARS)
S/O- MADHU SUDHAN SAMADDER
R/O-RANGIA STATION ROAD
RANGIA

WARD NO.1
DIST.-KAMRUP

PIN NO.-781354
ASSAM

19: JIAUDDIN CHOWDHURY
PHARMACIST REGISTRATION NO.9089
32(B)
(AGED ABOUT 57 YEARS)
S/O- LATE JALALUDDIN CHOWDHURY
R/O- NATUN BAZAR
BATHI RORA ROAD

P.O.-NAGAON
DIST.-NAGAON
PIN NO.-782001

ASSAM

20: MD. JOYNAL ABEDIN MIAH
PHARMACIST REGISTRATION NO.10183
32(B)
(AGED ABOUT 63 YEARS)
S/O HUSSAIN ALI
VILL TIAPARA
P.O LAKHIPUR

DIST. GOALPARA
ASSAM
PIN NO.783129

21: FORID UDDIN AHMED
PHARMACIST REGISTRATION NO.9139
32(B)
(AGED ABOUT 51 YEARS)
S/O- LATE AMIR UDDIN AHMED
R/O-VILL NADIKA
P.O.-ISLAM GAON

DIST.-LAKHIMPUR
PIN NO.-787054
ASSAM

22: AKHTARUZ JAMAN
PHARMACIST REGISTRATION NO.9646
32(B)
(AGED ABOUT 44 YEARS)
S/O-SOHRAG ALI
R/O- VILL THAKURANBOURI
P.O.-MANKACHAR
DIST.-DHUBRI

PIN NO.-783131
ASSAM

23: SHRI MOSTAFIZUL ISLAM
PHARMACIST REGISTRATION NO.8623
32(B)
(AGED ABOUT 44 YEARS)
S/O- AMIRUL ISLAM
R/O- N.S. ROAD
NEW MARKET

WARD NO.-5
P.O. and DIST.-DHUBRI

PIN NO.-783301
ASSAM

24: SHRI SUBHASH CHANDRA DAS
PHARMACIST REGISTRATION NO.7586
32(B)
(AGED ABOUT 75 YEARS)
S/O-LATE SASHI BHUSAN DAS
R/O- BARPETA TOWN
B.K. ROAD
DIST.-BARPETA
PIN NO.-781301
ASSA

VERSUS

THE ASSAM PHARMACY COUNCIL AND 5 ORS
A COUNCIL CONSTITUTED UNDER THE PROVISIONS OF SEC. 19 OF THE
PHARMACY ACT, 1948 AND HAVING ITS OFFICE SITUATED IN THE OFFICE
OF THE DIRECTOR OF HEALTH SERVICES CAMPUS, PHARMACY
BHAWAN, HENGRABARI, GUWAHATI 781036, IN THE DISTRICT OF
KAMRUP(M), ASSAM

2:THE EXECUTIVE COMMITTEE
A COMMITTEE CONSTITUTED UNDER SEC. 27 OF THE PHARMACY ACT
1948 AND REPRESENTED BY THE PRESIDENT HAVING ITS OFFICE AT
OFFICE OF THE DIRECTOR OF HEALTH SERVICES CAMPUS
PHARMACY BHAWAN
HENGRABARI
GUWAHATI 781036
IN THE DISTRICT OF KAMRUP(M)
ASSAM

3:THE REGISTRAR CUM SECRETARY
ASSAM PHARMACY COUNCIL
HENGRABARI
PHARMACY BHAWAN
GUWAHATI 781036 IN THE DISTRICT OF KAMRUP (M)
ASSAM.

4:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI 781006.

5:THE PRINCIPAL SECRETARY

TO THE GOVERNMENT OF ASSAM
HEALTH AND FAMILY WELFARE DEPARTMENT
DISPUR
GUWAHATI 781006

6:THE DIRECTOR
HEALTH SERVICES
HENGRABARI
GUWAHATI 781036 IN THE DISTRICT OF KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. S SARMA

Advocate for the Respondent : SC, HEALTH

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

23.02.2024

Heard Mr. S Sarma, learned counsel for the petitioners. Also heard Mr. G Gogoi, learned standing counsel for the Health Department.

2. This court under its order dated 31.05.2018 passed in WP(C) No. 3822/2017 and other connected writ petitions directed the respondent No. 1 to consider the case of the petitioner as regards validity of their licenses in terms of the Section 36 of the Pharmacy Act, 1948. It was also observed that while taking decision in exercise of power under Section 36 of the Act, the Executive Committee is to have strict regard to the certain findings in the aforesaid judgment. Subsequently, in exercise of power under Section 36 of the Act, 1948, the licenses of the petitioners were cancelled and the names of the petitioners were deleted from the roll of Pharmacy Council by the orders, which are under challenge in this writ proceeding.
3. Some similarly situated persons also approached this court by filing WP(C) 5335/2023. However, the Co-ordinate Bench did not pass any interim order

staying such orders passed under Section 36 of the Act, 1948 by the Executive Committee of the Pharmacy Council. Being aggrieved, those petitioners approached the Hon'ble Division Bench by filing WA 431/2023. The Hon'ble Division Bench under its order dated 24.11.2023 disposed of the appeal directing the appellants to approach the office of the Assam Pharmacy Council within a period of two weeks from passing of the said order in terms of Section 36(4) of the Act, 1948 i.e. to prefer an appeal.

4. In this case, a specific statement has been made that no copy of the order of confirmation passed by the Executive Committee of the Council in exercise of its power under Section 36(3) of the Act has been served upon the petitioner and therefore, in terms of Sub-section 4 of Section 36 of the Act, the petitioners are not in a position to prefer an appeal.
5. The impugned order(s) are communications of the Registrar of the Assam Pharmacy Council by which the decision to remove the name of the petitioners from the register of the council was communicated and there is nothing to show that the copy of the decision of the Executive Council or any confirmation made by the State Council is provided to the petitioners.
6. That being the position, the learned counsel for the petitioners submits that they are still willing to prefer an appeal subject to furnishing them a copy of the decision of the Executive Committee and order of confirmation by the State Council.
7. As an alternative remedy of appeal under Section 36(4) of the Act, 1948 is available and in the meantime the Hon'ble Division Bench in a similar circumstance has relegated the similarly situated petitioners to approach the appellate authority, this writ petition also stands disposed of with the following directions:

- I. The petitioners within a period of ten days from today shall submit

a copy of the order passed by this Court today along with a copy of the writ petition to the respondent No.1.

II. The respondent No. 1 within a period of two weeks thereafter shall provide a copy each of the Executive Committee decision to the petitioners, whereby the decision to remove the name of the petitioners from the roll of the council was taken and a copy of the decision/confirmation made by the State Council.

III. Thereafter, on receipt of copies of the copies of the determination made by the Executive Committee and the confirmation made by the State Council, the petitioners shall be at liberty to approach the Appellate Authority within the prescribed period of time under Section 36(4) of the Act, 1948.

IV. Till copies of the decision of the Executive Committee and the confirmation as discussed herein above are handed over to the petitioners, the impugned orders of cancellation of license shall remain suspended.

V. Accordingly, this writ petition stands disposed of.

8. While parting with the record, it is made clear that this court has not entered into any merit of the decision taken by the Executive Committee or by the State Council. The Appellate Authority shall be at liberty to consider all the grievances of the petitioners in terms of the Pharmacy Act, 1948.

JUDGE

Comparing Assistant