
(2009) 12 GAU CK 0062
In the Gauhati High Court
Case No : Writ Petition (Civil) No. 971 of 2009

Latu Dasgram Co-operative Society Limited	APPELLANT
Vs	
State of Assam and Others	RESPONDENT

Date of Decision : 08-12-2009

Acts Referred:

Constitution of India, 1950 — Article 226
Essential Commodities Act, 1955 — Section 3

Citation : (2010) 2 GLD 18 : (2010) 1 GLT 653

Hon'ble Judges : H. Baruah, J

Bench : Single Bench

Advocate : N. Dhar and B. Malakar, for the Appellant; H.M. Phukan, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

H. Baruah, J.—In challenge are the orders dated 6.9.2008 (Annexure-23) and 4.12.2008 (Annexure-31) passed by Deputy Commissioner, Karimganj and the order dated 5.2.2009 (Annexure- 37) passed by the appellate authority. By order dated 6.9.2008 (Annexure-23) Deputy Commissioner, Karimganj for alleged violation of the terms and conditions of the license No. PDA/Sub/23(A) allotted to Lato Dasgram Co-operative Society suspended it for a period of 90 days per provision of Clause 15 (2) of Assam Public Distribution of Articles Order 1982 (for short APDA Order, 1982) while by order dated 4.12.2008 (Annexure- 31) cancelled the aforesaid licence granted and issued in favour of M/s. Latu Dasgram Co-operative Society Ltd. By order dated 5.2.2009 the Commissioner, Hills and Barak Valley Division, Assam dismissed the appeal preferred by M/s. Latu Dasgram Co-operative Society Ltd. against the order of cancellation of licence.

2. The petitioner M/s. Latu Dasgram Co-operative Society Ltd. being aggrieved by the orders indicated above preferred this instant writ petition under Article 226 of the Constitution of India for setting aside of the aforesaid impugned

orders passed by the Deputy Commissioner, Karimganj as well as the appellate authority, the Commissioner, Hills and Barak Valley Division, Assam.

3. The facts involved in this writ petition can be summarized as under:

The petitioner is a co-operative society registered under the Assam Cooperative Societies Act, 1949. Mr. Abdul Ahmad Choudhury was elected as Chairman of the society in its annual general meeting held on 27.4.2008. Election of the Chairman and the constitution of the Managing Committee was duly approved by the Assistant Registrar of Co-operative Society, Karimganj by his order dated 3.5.2008. The Chairman, Abdul Ahad Choudhary when assumed charge of the office of the Chairman found/detected various anomalies in allotment and release of PDS articles to the petitioner's society. He accordingly submitted a complaint before the Commissioner and Secretary to the Govt. of Assam, Food and Civil Supplies Department for information and necessary action Pursuant to his complaint, the Deputy Secretary to the Govt. of Assam, Food and Civil Supplies Department vide letter dated 2.6.2008 directed the Deputy Commissioner, Karimganj to take necessary action for lifting the PDS articles by the petitioner's society directly from the FCI godown. Said direction was not adhered to rather the petitioner's society was directed to collect the PDS articles from Karimganj Wholesale Co-operative Society instead of FCI godown. The Chairman submitted a complaint before the Addl. Chief Secretary to the Govt. of Assam for necessary action. The Managing Committee of the petitioner's society in its meeting held on 29.7.2008 adopted resolution No. 14 against the Secretary of the petitioner namely, Mustafa Ahmed, a Sr. Inspector of the Co-operative Society for his removal from the post on account of his indulging in corruption. The Managing Committee also adopted resolution No. 15 for appointment of Suhel Ahmed Choudhary, an Office Assistant of the petitioner's society temporarily as the Secretary to it. The zonal Joint Registrar of Co-operative Society, Cachar and Karimganj district vide his letter dated 7.8.2008 requested Registrar of the Co-operative Society, Assam for withdrawal of Mustafa Ahmed from the post of Secretary of the petitioner's society and to make an alternative arrangement therefor. Another complaint was lodged before the Chief Secretary, Govt. of Assam, wherein it was alleged that the petitioner society was not allotted with PDS articles for a period of 5 (five) years although such PDS articles were regularly released by the department in its name. It was also alleged that the Assistant Registrar Co-operative Society, Karimganj did not allow the cooperative society to collect the PDS articles directly from the FCI godown rather insisted the co-operative society to collect the PDS articles from Karimganj Wholesale Co-operative Society of which he is the secretary. In the said complaint an allegation was also made against the Deputy Commissioner, Karimganj, Superintendent of Food and Civil Supplies, Karimganj and the Assistant Registrar of Co-operative Society, Karimganj for indulging in collusion in collection of the PDS articles by the Co-operative societies from the Karimganj Wholesale Co-operative Society. Deputy Secretary to the Govt. of Assam, Food and Civil Supplies Department by his letter dated 11.8.2008 directed the Deputy Commissioner, Karimganj to

submit a detailed report in the context of allotment of PDS articles for which he became annoyed with the petitioner society. The resolution Nos. 14 and 15 were directed to be excluded by the Joint Registrar of Co-operative Society Assam by his letter dated 14.8.2008 whereby direction was given to accord approval of the proceedings of the Managing Committee of the petitioner society held on 29.7.2008. Thereafter, the Deputy Commissioner, Karimganj by various letters directed the Karimganj Wholesale Co- operative Society to issue 405.89 quintals of rice (BPL) for the month of August, 2008, 242.45 quintals of rice (AAY) for the month of August-2008 and 80.64 quintals of rice (APL) for the month of August, 2008 to the petitioner society directly from the FCI godown. On such allotment, the Secretary of the petitioner's Society purchased 334.38 quintals of rice (BPL) on 23.8.2008 from the Karimganj Wholesale Co-operative Society out of 405.89 quintals rice allotted vide letter dated 18.8.2008 issued by the Deputy Commissioner, Karimganj. Of the purchased quantity, 130 quintals reached the destination and stored in the godown of the petitioner's society situated at Latu, however, three trucks loaded with remaining quintals of rice purchased on 23.8.2008 from Karimganj Wholesale Cooperative Society could not reach the godown of the petitioner's society on account of dilapidated condition of the bridge over Longai river. Three truck loaded rice (BPL) was accordingly stored in a RCC building at Dasgram. The factum of inability to carry and store the rice in the petitioner's godown on account of dilapidated condition of the bridge was intimated along with a certificate issued by the Executive Engineer, PWD, State Road Division, Karimganj. The Secretary of the petitioner society thereafter also purchased 44.31 quintals of rice (BPL) 56.59 quintals of rice (APL) and 24.05 quintals of rice (APL) on 25.8.2008 from Karimganj Wholesale Co-operative Society vide cash memo dated 25.8.2008 allotted vide order dated 18.8.2008 issued by the Deputy Commissioner, Karimganj. Such quantity of purchased rice on account of dilapidated condition of the bridge as stated above also could not be carried to the petitioner society's godown and accordingly same was stored in the building of Abdul Rakib and Siraj Uddin to the knowledge and acquiescence of the authority concerned. Storage of the rice in the place as indicated above other than the godown of the petitioner society had been informed to the Superintendent of Food and Civil Supplies, Karimganj by Suhel Ahmed Choudhury, the Secretary of the petitioner society vide the letter dated 25.8.2008 and accordingly, requested the authority to make an inquiry so that the petitioner society could not be held liable under APDA order, 1982. The letter dated 25.8.2008 was acknowledged by one Debabrata Das, Sr. Assistant of the Food and Civil Supplies Department, Karimganj. The fact of storage of this PDS rice and APL as purchased was also informed to the Superintendent of Food and Civil Supplies, Karimganj by the Chairman of the petitioner's society by his letters dated 25.8.2008 narrating all details of such storage. A physical verification of such stock was made by Bijay Kr. Singh and Sri Gopendra Das, Inspector and Sub-Inspector respectively of Food and Civil Supplies department, Karimganj on receipt of the letters dated 25.8.2008 written by the Secretary and the Chairman as well of the petitioner's society. Both of them did not find any

shortage of the stock of the PDS article purchased by the petitioner society on 23.8.2008 and 25.8.2008 while making physical verification of the stock. On 3.9.2008 under instruction from the Deputy Commissioner Karimganj Bijay Kr. Singh, Inspector of Food and Civil Supplies department, Karimganj seized 398.30 quintals of rice purchased vide cash memo dated 23.8.2008 and 25.8.2008 by the petitioner society from the possession of the Secretary of the society. On the same day Gopendra Ch. Das, Sub-Inspector of Food and Civil Supplies under instruction of the Deputy Commissioner, Karimganj also seized 66.50 quintals of rice purchased vide cash memo dated 23.8.2008 and 25.8.2008. On 6.9.2008 Sri Bijay Kr. Singh, Inspector of Food and Civil Supplies also seized 81.5 quintals of rice at the instance of the Deputy Commissioner, Karimganj. All such rice as indicated above were seized under a seizure list. Deputy Commissioner, Karimganj thereafter vide impugned order dated 6.9.2009 suspected the licence No. PDA/Sub/23(A) of the petitioner society by invoking Clause 15 (2) of APDA Order, 1982 without taking into consideration of the declaration dated 25.8.2008 prepared by Food and Civil Supplies Department's Officers, Karimganj. It is contended that suspension of licence by the Deputy Commissioner, Karimganj was pre-meditated inasmuch as it was passed before placing the report prepared by Bijay Kr. Singh, Inspector of Food and Civil Supplies, Karimganj, wherein suspension of licence of the petitioner society was suggested. It is contended further that when an allegation has been made against the Deputy Commissioner of Karimganj, Superintendent of Food and Civil Supplies, Karimganj and Assistant Registrar of Co-operative society, Karimganj before the Chief Secretary, Govt. of Assam it was not prudent on the part of the Deputy Commissioner, Karimganj to pass an order suspending the licence of the petitioner society which palpably reflects biasness of the Deputy Commissioner, Karimganj. Petitioner society accordingly being aggrieved by the impugned activities of the Deputy Commissioner, Karimganj filed the writ petition No. 4290 of 2008 before this Court and this Court was pleased to stay the operation of the order dated 6.9.2008 by its order dated 30.9.2008. While staying the impugned order dated 6.9.2008 issued a direction to allow the petitioner society to continue to provide PDS articles to the public. Per direction of this Court the petitioner society submitted a representation dated 3.10.2008 before the Deputy Commissioner, Karimganj to allow the petitioner society to distribute PDS articles to the public. Deputy Commissioner, Karimganj on receipt of the representation dated 3.10.2008 directed Inspector of Food and Civil Supplies, Karimganj to enter into the godown of the petitioner society by breaking open the lock and seize the rice that was given in zimma to the Secretary to the petitioner in pursuance of his order dated 1.10.2008. Inspector of Food and Civil Supplies accordingly sold the commodities in open market in disregard of the order dated 30.9.2008 passed by this Court. This Court while dealing with the writ petition No. 4290 of 2008 by which a challenge has been made against the order dated 6.9.2008 was pleased to direct the petitioner society vide its order dated 17.11.2008 to file an appeal against the order under Clause 29 (1) (c) of the APDA Order, 1982 and accordingly vacated the interim order dated 30.9.2008. Thereafter the Chairman

of the Society submitted a representation dated 21.11.2008 before the Commissioner and Secretary to the Govt. of Assam praying inter alia refund of the total amount of Rs. 4,00,108/- on account of sale of the seized articles by Deputy Commissioner, Karimganj who cancelled the licence of the petitioner society by impugned order dated 4.12.2008 passed under Clause 15 (2) of the APDA Order, 1982. It is alleged by the petitioner society that the cancellation of the licence of the petitioner society was made without hearing the petitioner and the same was passed on the basis of the report of Md. Mustafa Ahmed, who was no longer Secretary to the petitioner society. It is further contended that the Deputy Commissioner violated the principle of natural justice by not giving an opportunity to the petitioner society of being heard. The appeal was preferred before the Commissioner, Hills and Barak Valley Division, Assam against the order dated 6.9.2008 and 4.12.2008 passed by the Deputy Commissioner, Karimganj. Though the appellate authority had a personal hearing of the Deputy Commissioner, Karimganj in respect of the impugned orders passed by him, he however, failed to set aside the impugned orders passed by the Deputy Commissioner, Karimganj. On the other hand the Deputy Commissioner, Karimganj issued a notice dated 22.1.2009 to Shri Debabrata Das, dealing assistant to show cause as to why the disciplinary action shall not be taken against him. Said Debabrata Das, Dealing Assistant submitted his reply dated 30.1.2009 whereby he admitted the receipt of the letter dated 25.8.2008 submitted by the Secretary of the petitioner society in the office of the Food and Civil Supplies Department, Karimganj, which was sent to the concerned authority through office Dak Pad. It is alleged that the appellate authority by ignoring the facts and materials passed the impugned order dated 5.2.2009 on surmise and conjecture. The order passed by the appellate authority is perverse which resulted denial of justice to the petitioner society.

4. The petitioner society on these above grounds has challenged the impugned orders as indicated herein before.

5. Respondent Nos. 3, 4 and 5 resisted this petition by filing affidavit in opposition while the remaining respondents (respondent Nos. 1, 2 and 6) did not file any counter-affidavit. Respondent No. 4, in particular, in his counter-affidavit contended that the fund position of the M/s. Latu Dasgram Co- operative Society Ltd. was very poor to make direct lifting of PDS articles from the FCI godown. He also contended that the petitioner society having had the knowledge of the dilapidated condition of the bridge purchased the PDS rice and tried to carry the same through big trucks which could not have been passed through such dilapidated bridge. Petitioner society tried to procure illegal money by misappropriating the PDS commodities by the newly elected Chairman, Md. Abdul Ahad Choudhury, who does not carry a good reputation rather involved in many criminal activities. It is also inter alia contended that only 81.5 quintals of rice was stored in the society's godown whereas balance stock had been stored in the house of the three Nos. of private persons without intimating the concerned authority as required per provision of APDA Order, 1982. Such storage

was made by the society for the purpose of misappropriation only. In paragraph-8 of the counter-affidavit filed by respondent No. 3 it is contended that a back dated intimation was made to an unscrupulous dealing assistant, namely, Debabrata Das. The Chairman of the petitioner society having had a criminal background managed the letter of intimation back dated, which cannot be taken into consideration on account of failure to make an intimation to the Court, availability of such letter in WP (C) No. 4290 of 2008. The seizure of the PDS rice was made on account of unauthorized storage in the house of private persons. It is further contended in the paragraph-13 that impugned order dated 6.9.2008 was made by the Deputy Commissioner, Karimganj after scrutiny of the report submitted by Inspector and Sub-Inspector of Food and Civil Supplies on 8.9.2008. The respondent No. 3 in his counter-affidavit inter alia contended that M/s. Latu Dasgram Co-operative Society Ltd., the petitioner herein has/had been functioning since last 8 (eight) years approximately tagging GPPS under Karimganj Wholesale Co-operative Society on account of small working capital at Rs. 40,000/- only. On account of such difficulties, the co-operative society had been distributing the allotted PDS articles to the tagging agents from the godown of M/s. Karimganj Wholesale Cooperative Society, Karimganj. It is also contended in paragraph-8 that storing of purchased notified articles for the month of August-2008 other than the stores of the petitioner society has never been intimated to the licensing authority or to the Deputy Commissioner, Karimganj. In order to legalise such illegal storage the petitioner society managed to submit intimation through an unauthorized assistant of the FCS and CA branch, Karimganj, who was not at all authorized to accept such document. In paragraph-13 with reference to paragraphs-25 and 26 of the writ petition it is contended that Mr. B.K. Singh, Inspector and G.C. Das, Sub-Inspector of Food and Civil Supplies on 3.9.2008 submitted a detailed report on the seizure of PDS article and the Deputy Commissioner, Karimganj, the licensing authority deem it to be a fit case to suspend the licence by resorting to Clause 15 (2) of APDA Order, 1982. While respondent No. 5 in paragraph-4 of his counter-affidavit admitted the approval of the resolution Nos. 14 and 15 of the Managing Committee of the petitioner's society and appointment of Suhel Ahmed Choudhury as in-charge Secretary to the petitioner society. In paragraph-5 he also contended that per judgment and order dated 29.9.2008 passed in WP (C) No. 4066 of 2008, Mustafa Ahmed, Sr. Inspector of Co-operative Societies took over charge as Secretary of the petitioner from Suhel Ahmed Choudhury, in-charge Secretary on 30.10.2008 and has been continuing as such till date. The respondent Nos. 3 and 4 denied the other allegation brought in by the petitioner society.

6. Mr. N. Dhar, learned Counsel for the petitioner as well as Mrs. H.M. Phukan, learned Govt. Advocate were heard at length.

7. Mr. N. Dhar, learned Counsel for the petitioner at the very outset of his argument raised 2 (two) issues before this Court for a decision as follows:

(a) whether the Deputy Commissioner, Karimganj, respondent No. 4 herein has the jurisdiction to issue in other words pass the impugned orders under Clause 15 (2) of the APDA Order, 1982 when he does not fall within the purview of Clause 2 (i) of the order and;

(b) whether the impugned orders passed by the Deputy Commissioner, Karimganj, respondent No. 4 can be sustained without giving any notice to the petitioner society to project its case before passing such order.

8. In regard to issue No. 1 it was argued by Mr. N. Dhar, learned Counsel for the petitioner that the APDA Order, 1982 was notified on 14th June, 1982 by the Governor of Assam in exercise of power conferred by Section 3 of the Essential Commodities Act, 1955 (Act 10 of 1955) read with the Govt. of India, Ministry of Agriculture and Irrigation (Department of Food) Order No. GSR 800 dated 9th June, 1978, wherein the licensing authority has been defined in Clause 2 (i) of the APDA, Order 1982 which reads as under:

2(i) Licensing Authority means an officer not below the rank of Inspector of Food and Civil Supplies Department appointed by the State Government to exercise all or any of the powers and perform all or any of the duties of the licensing Authority for different areas.

Mr. N. Dhar, taking aid of this definition submitted that nowhere in the definition, the Deputy Commissioner of a district has found place. It has specifically indicated the officers of the department concerned not below the rank of Inspector of Food and Civil Supplies who are required to be appointed by the State Government. This being the definition in the Order itself Deputy Commissioner, Karimganj district had no jurisdiction to pass any of the impugned orders dated 6.9.2008 and 4.12.2008 since he is not a licensing authority within the meaning of Clause 2 (i) of the APDA Order, 1982. Therefore, the orders dated 6.9.2008 and 4.12.2008 were passed without any jurisdiction which cannot sustain legally. Clause 1 of the APDA Order, 1982 gives an authority to the licensing authority either to cancel or suspend licence in writing and an entry is required to be made in the licence relating to such suspension or cancellation when a license or his agent or servant or any other person acting on his behalf contravenes any of the terms and conditions of the licence. Therefore, this clause as indicated authorises the licensing authority either to suspend or cancel the licence in writing. It was argued by Mr. N. Dhar that since the Deputy Commissioner, Karimganj is not a licensing authority within the meaning of Clause 2 (i) of the APDA Order, 1982 he cannot exercise such power as indicated in Clause 15 (1) of the APDA Order 1982. Orders passed by the Deputy Commissioner, Karimganj according to Mr. N. Dhar are illegal which do not receive any sanction from the APDA Order, 1982.

9. Mrs. H.M. Phukan, learned Govt. Advocate representing State respondents, however, failed to place before this Court any document/notification of the Government authorizing the Deputy Commissioner to act as licensing authority

under APDA Order, 1982. This being the position in the face of the record, this Court finds no good ground to reject the submission advanced by Mr. N. Dhar, learned Counsel for the petitioner. When the learned Govt. Advocate failed to place any document/notification authorizing the Deputy Commissioner to be a licensing authority, the orders passed by him suspending and cancelling the licence granted to the petitioner society cannot legally sustain.

10. In regard to issue No. 2 as has been raised by Mr. N. Dhar referring to sub Clause (2) of Clause 15 of the APDA Order 1982 submitted that no order of cancellation shall be made under this provision unless the licensee has been given a reasonable opportunity of stating his case against the proposed cancellation. The Deputy Commissioner who passed the order dated 4.12.2008 by which the licence of the petitioner society has been cancelled, before adopting such step no reasonable opportunity was given to the petitioner society to project its case against such cancellation. It was submitted by Mr. N. Dhar that order dated 4.12.2008 was passed by the Deputy Commissioner, Karimganj in sheer violation of the principle of natural justice. Any order or action taken without issuing any notice to the aggrieved party and giving a reasonable opportunity of being heard such order/action is hit by principle of natural justice and violative of fundamental right enshrined in the Constitution of India. Mrs. H.M. Phukan, learned GA representing the State respondents failed to bring to the notice of the Court any such notice issued by the Deputy Commissioner to the petitioner society before resorting to cancellation of the licence of the petitioner society. The order of cancellation made vide order dated 4.12.2008 appears violative of Sub-clause 2 of clause 15 of APDA Order, 1982. Moreover, as discussed herein before this order was also passed by a person who does not fall within the purview of definition of licensing authority.

11. In absence of production of any notification authorizing the Deputy Commissioner to be a licensing authority by the State Government to act under Clause 15 of the APDA Order, 1982 and proof of service of notice to take resort to provision of subclause (2) of Clause 15 by the respondents, argument advanced by Mr. N. Dhar, learned Counsel for the petitioner cannot be thrown into a waste paper basket, accordingly, this Court finds sufficient force in the argument of Mr. N. Dhar that the impugned orders passed by the Deputy Commissioner, Karimganj, respondent No. 4 herein are legally not sustainable.

12. Mr. N. Dhar during the course of argument further submitted that the responsible authority had been intimated regarding storage of the PDS articles in godowns other than the godown of the petitioner society. That intimation was conveyed through one Debabrata Das, who admitted such submission of intimation in view of the dilapidated condition of the bridge over Longai River. If storage is made of PDS articles in violation of the provision of the Order admittedly the appropriate authority would be at liberty either to cancel the licence or suspend the licence. When the factum of such storage has been intimated properly, the condition of the licence cannot be said to have been

violated, for which action can be taken. Referring to the note of Form I of the APDA Order, 1982, Mr. N. Dhar submitted that no condition has been violated by the petitioner society by storing the PDS articles in different stores other than the stores/godown of the petitioner society. The note of Form-I of the APDA Order, 1982 reads as under:

NOTE: If the licensee intends to store the notified articles in place other than those specified above, he shall give intimation in writing to the Licensing Authority within a period of seventy two hours of actual storing of these articles therein. He shall also produce the licence before the licensing Authority within a fortnight of his giving intimation mentioned above, for the purpose of making requisite changes.

It was argued by Mr. N. Dhar that storage of such PDS articles in the stores other than the stores meant for the petitioner society was intimated to the licensing authority in time and therefore, the impugned order passed by the Deputy Commissioner, dated 4.12.2008 cannot legally sustain. Submission of intimation in writing has been admitted by Sri Debabrata Das, the office assistant of the office of the Food and Civil Supplies, Karimganj, therefore, refusal on the part of respondents that no such intimation was made at any point of time by the petitioner society cannot be accepted. The storage so made after giving intimation within the time cannot be said to have been made in violation of the condition of the licence. This Court in view of the facts situation in regard to submission of intimation to the appropriate authority in other words the licensing authority finds hard to hold that the petitioner society violated the conditions of the licence which can render cancellation or suspension of the licence by the licensing authority.

13. Mr. N. Dhar resorting to the ratio laid down in the cases between A.K. Kraipak and Others Vs. Union of India (UOI) and Others, , State of West Bengal and Others Vs. Shivananda Pathak and Others, and G.N. Nayak Vs. Goa University and Others, submitted that the impugned orders were passed by the Deputy Commissioner, Karimganj actuated by bias in view of lodgment of a complaint against him, Superintendent of Food and Civil Supplies, Karimganj and Assistant Registrar of the Co- Operative Societies and also when he is accused of non-compliance of the instruction contained in Government's letters dated 2.6.2008 and 11.8.2008 (Annexure-3 and Annexure-8) and, therefore, the impugned orders passed by the Deputy Commissioner, Karimganj are hit by biasness, which, therefore, cannot have legal sanctity. The impugned order dated 6.9.2008 has also been assailed by Mr. N. Dhar, learned Counsel for the petitioner on the ground that the impugned order dated 6.9.2008 was passed basing on a report dated 8.9.2008. It was argued by Mr. N. Dhar that Deputy Commissioner, Karimganj put the horse behind the cart while passing the impugned order in the same way, the impugned order dated 4.12.2008 is also assailed on the ground that the same was passed basing on the reply submitted by Md. Mustafa Ahmed, who was not a Secretary of the petitioner society during

the relevant time. This piece of submission of Mr. N. Dhar cannot sustain in view of the statement incorporated in paragraph-5 of the counter-affidavit filed by respondent No. 5, wherein it has been contended that Mustafa Ahmed took over the charge from Suhel Ahmed Choudhury per judgment and order dated 29.9.2008 passed in WP (C) No. 4066 of 2008 on 30.10.2008. The reply to the show cause was submitted by said Mustafa Ahmed recorded on 3.12.2008 when he was holding the charge of Secretary of petitioner society. This Court finds no force in the argument advanced by Mr. N. Dhar in this context.

14. Be that as it may be, the orders dated 6.9.2008 and 4.12.2008 were not apparently passed in accordance with the provision of the APDA Order, 1982, since Deputy Commissioner, Karimganj is not a licensing authority within the meaning of Clause 2 (i) of the APDA order, 1982. Further, these orders were made in violation of principle of natural justice.

15. In view of the facts and circumstances of the case and the provisions of the APDA order, 1982 and the law laid down by the Supreme Court, this Court is of considered view that impugned orders dated 6.9.2008 (Annexure-23) and 4.12.2008 (Annexure-31) are not legally sustainable. The aforesaid orders are accordingly set aside and quashed.

16. Writ petition is allowed and disposed of. No cost.