

GAHC010027572026



undefined

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

Case No. : WP(C)/1173/2026

NAND KISHORE MUNDHRA
S/O SRI RAM DAYAL MUNDHRA, PROPRIETOR OF M/S R.D. TRADING CO.
R/O R.B. LANE , WARD NO 6, P.O. AND P.S. JORHAT, DIST. JORHAT, ASSAM,
PIN 785001

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, HOUSING AND URBAN AFFAIRS DEPTT., DISPUR, GUWAHATI 6

2:JORHAT MUNICIPAL BOARD
REPRESENTED BY ITS CHAIRPERSON
JORHAT
ASSAM
PIN- 785001

3:THE CHAIRPERSON
JORHAT MUNICIPAL BOARD
UNNYAN BHAWAN
A.T. ROAD
JORHAT- 785001
ASSAM

4:THE EXECUTIVE OFFICER
JORHAT MUNICIPAL BOARD
DIST- JORHAT
ASSAM
PIN- 785001

5:RAJESH KUMAR AGARWALLA
S/O- LATE MAHAVIR PRASAD AGARWALLA

P.O- AND P.S JORHAT
ASSAM

PIN-N 78500

Advocate for the Petitioner : MR S BORTHAKUR, MR. U K DEKA,MS. P BORAH

Advocate for the Respondent : GA, ASSAM, MR H K SARMA (R- 2 to 4),MR. P BHOWMICK(R5)

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocates for the petitioner : Shri S. Borthakur, Sr. Advocate,
Shri U.K. Deka, Advocate.

Advocate for the respondents : Shri H.K. Sharma, Advocate
Shri P. Bhowmick, Advocate (R-5)

Date on which judgment is reserved : 20.08.2026

Date of pronouncement of judgment : 20.08.2026

Whether the pronouncement is of the operative part of the judgment? : NA

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

Heard Shri S. Borthakur, learned Senior Counsel assisted by Shri U.K. Deka, learned counsel for the petitioner. Also heard Shri H.K. Sharma, learned counsel for the Jorhat Municipal Board and Shri P. Bhowmick, learned counsel for the respondent

no. 5. As pleadings have been exchanged and as agreed to by the learned counsel for the parties, the instant writ petition is taken up for disposal at the admission stage.

2. The challenge in this writ petition is with regard to an order dated 09.01.2026 passed by the Jorhat Municipal Board by which, the Trade License of the petitioner has been cancelled.

3. As per the facts projected, the petitioner had entered into a Tenancy Agreement with the respondent no. 5 on 01.08.2016 for one room. Subsequently, a Trade License was obtained on 16.08.2016 for doing business from the said room which was renewed from time to time. On 19.12.2022, a fresh Trade License was obtained which was valid till 30.03.2025, whereafter the petitioner had applied for a renewal. As there was no response, the petitioner had made certain enquiries and could learn that there was an objection by the landlord- respondent no. 5.

4. Shri Borthakur, the learned Senior Counsel for the petitioner has contended that under those circumstances, Misc. (NJ) Case No. 285/2024 was filed before the appropriate Civil Court at Jorhat and rents from the month of June, 2024 onwards have been paid in respect of the said room. He has also informed this Court that the petitioner had approached this Court earlier by filing WP(C)/3641/2025 which was disposed of by directing the Municipal Board to hear both the parties and take a final decision. In the meantime, a legal notice was also issued by the respondent no. 5 on 02.06.2025 demanding enhanced rent and outstanding amount. He has also submitted that on 18.06.2025, an FIR was lodged against his client on the allegation that his client had threatened and demanded money from the respondent no. 5. His attempt to get an anticipatory bail from this Court was also rejected.

5. The learned Senior Counsel for the petitioner has submitted that the petitioner came to learn that another FIR was lodged that the signature of the respondent no. 5 appearing in a rent agreement was forged. Be that as it may, in terms of the direction

of this Court in the earlier writ petition, WP(C)/3641/2025, a notice for hearing was issued on 28.07.2025 and the hearing was held on 30.07.2025. It is contended that in the said hearing, there was an admission on behalf of the respondent no. 5 regarding the tenancy. Thereafter, the Municipal Board had issued a notice on 19.11.2025 as to why the Trade License should not be cancelled. The said notice had referred to a report by the Forensic Laboratory that the signature in the agreement of the respondent no. 5 was forged. The said notice was responded by the petitioner on 21.11.2025 by denying the charge of forgery and also stating that the said charge cannot be taken into consideration unless proved in accordance with law. It was also contended that the forensic report was not furnished to the petitioner. Thereafter, as indicated above, the impugned order has been passed on 09.01.2026 cancelling the license.

6. The learned Senior Counsel for the petitioner has submitted that the impugned action is not sustainable in law as the same is based on materials which were not provided to the petitioner. He has categorically submitted that the conclusions were arrived at based on a finding from a report of the Forensic Laboratory, copy of which was not given to the petitioner. He has also contended that unless such report is approved or endorsed by an appropriate Court of law, the same cannot be taken cognizance of and on both the counts, the impugned order is unsustainable in law and liable to be set aside.

7. *Per contra*, Shri Sharma, the learned Counsel for the Municipal Board (respondent nos. 2, 3 and 4), by referring to the affidavit-in-opposition dated 11.06.2026 has submitted that a written agreement is one of the essential conditions for issuance or renewal of a Trade License. He has submitted that the Municipal Board was apprised of the dispute between the respondent no. 5 and the petitioner in connection with which, police case was also lodged. The Municipal Board in its wisdom had accordingly sought for the report of the forensic laboratory which was made in

connection with the police case and the said report had categorically stated that the signature of the respondent no. 5 in the agreement was forged. He has submitted that the notice dated 19.11.2025 issued to the petitioner had an enclosure in the form of the letter of the police authorities and therefore, it cannot be contended by the petitioner that he was not aware of the report of the forensic laboratory. He has submitted that the impugned decision is based on relevant considerations and therefore, no case for invoking a writ of certiorari is made out and the writ petition is liable to be dismissed. He has denied that there has been any violation of the principles of natural justice.

8. Shri Sharma, the learned counsel for the Municipal Board has also drawn the attention of this Court to Section 233 of the Assam Municipal Act, 1956 and has contended that a provision for appeal is given and without taking recourse of such provision, the writ petition has been filed and on this ground itself, the writ petition ought to be dismissed. He has also apprised this Court that presently, Trade Licenses are issued on an online mode through the Sewa Setu portal.

9. Supporting the stand of the Municipal Board, Shri Bhowmick, the learned counsel for the respondent no. 5 has categorically denied that there has been any agreement with the petitioner for Tenancy Agreement. He has submitted that though in the year 2016, the petitioner was inducted as a tenant, subsequently such tenancy was not extended and the petitioner, by misrepresenting facts has instituted the Misc (NJ) case No. 285/2024. On the aspect of violation of the principles of natural justice, the learned counsel for the respondent no. 5 has contended that such principles cannot be adjudged on a straitjacket formula and would depend on the facts and circumstances of each case. In the instant case, the principles of natural justice were duly followed as adequate opportunity was given to the petitioner by the Municipal Board before taking the impugned decision on 09.01.2026. He has also relied upon a decision of this Court dated 23.10.2019 in WP(C)/3378/2014.

10. In his response, Shri Borthakur, the learned Senior Counsel for the petitioner has submitted that the provision of Section 233 of the Assam Municipal Act would not be applicable for the purpose of extension or issue of a Trade License. He reiterates that there is indeed violation of the principles of natural justice.

11. The rival contentions have been duly considered and the materials before this Court have been carefully examined.

12. It is not in dispute that on 01.08.2016, the petitioner was inducted as a tenant by the respondent no. 5 in respect of one room, wherefrom he had started a business on the strength of a Trade License issued by the Jorhat Municipal Board on 16.08.2016. The materials on record would also show that the Trade License was renewed from time to time and was valid till 30.03.2025. The projected case is that the application for renewal made on 31.03.2025 was not responded to and the petitioner could learn that the landlord had objected to such renewal. The petitioner has also contended that rent till May-2024 was paid and from June, 2024, Misc (NJ)Case No. 285/2024 has been instituted and rent have been paid in the Court thereafter.

13. The earlier writ petition WP(C)/3641/2025 was disposed of by this Court to hear both the parties. It clearly appears that in terms of such direction of this Court, notice was issued for hearing by the Municipal Board and such hearing was held on 30.07.2025. It is contended on behalf of the petitioner that in the hearing, the respondent no. 5 had admitted the tenancy. However, a close perusal of the minutes would show that only in the year 2016, the petitioner was allowed to carry on his business in one room.

14. The issue before this Court is on the aspect of renewal / issuance of Trade License pursuant to the application made by the petitioner on 31.03.2025. Admittedly, there is an objection of the respondent no. 5 who is the landlord and in fact, there is a

dispute regarding the tenancy which is manifested by filing of Misc (NJ)Case No. 285/2024. Though much emphasis has been laid on the aspect that the impugned decision is based on the forensic report, copy of which has not been furnished to the petitioner, this Court is of the *prima facie* opinion that *de hors* the said report, when an objection has been raised by the landlord, the Municipal Board cannot be found fault with in not issuing or renewing a Trade License in respect of a person who is occupying a room of the respondent of 5. As relied upon by Shri Bhowmick, the learned counsel, in the judgment dated 23.10.2019 in WP(C)/3378/2014, this Court had held that the conditions precedent for renewal of Trade License includes an agreement in case such an applicant is a tenant and such condition can be insisted upon by a Municipality. In the instant case, there is no such consent from the owner of the premises who has also contested this proceeding by filing of an affidavit.

15. This Court is of the opinion that the principles of natural justice has been duly adhered to inasmuch as the petitioner was granted adequate opportunity by issuance of notice both in terms of the order of this Court and subsequently as to why the Trade License should not be cancelled. In any case, the principles of natural justice, though one of the most important aspects in the dispensation of justice cannot play the role of unruly horse and in specific cases it may also amount to useless formality.

16. The Hon'ble Supreme Court in the case of ***Sohan Lal Gupta Vs. Asha Devi Gupta***, reported in **(2003) 7 SCC 492** had elaborately explained the facet of principles of natural justice by discussing all the previous case laws holding the field. The relevant observations are as follows:

“25. The principles of natural justice, it is trite, cannot be put in a straight jacket formula. In a given case the party should not only be required to show that he did not have a proper notice resulting in violation of principles of natural justice but also to show that he was seriously prejudiced thereby. In The Chairman, Board of Mining Examination and Chief Inspector of Mines

and Another v. Ramiee [(1977) 2 SCC 256], this Court held:

‘...Natural justice is no unruly horse, no lurking land mine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt - that is the conscience of the matter.’

17. The Hon’ble Supreme Court in the said case had also referred to the treatise on Administrative Law by Wade wherein the following observations have been quoted with approval:

“32. In ‘Administrative Law’, 8th Edn., by William Wade and Christopher Forsyth at page 491, it has been stated :

‘....At the other end of the spectrum of power, public authorities themselves are now given the benefit of natural justice, as illustrated at the end of this section. Basically the principle is confined by no frontiers.

On the other hand it must be a flexible principle. The judges, anxious as always to preserve some freedom of manoeuvre, emphasise that ‘it is not possible to lay down rigid rules as to when the principles of natural justice are to apply; nor as to their scope and extent. Everything depends on the subject-matter’. Their application, resting as it does upon statutory implication, must

always be in conformity with the scheme of the Act, and with the subject-matter of the case. 'In the application of the concept of fair play there must be real flexibility'. There must also have been some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice."

18. This Court is of the opinion that in exercise of certiorari jurisdiction, it is the decisionmaking process which would be within the ambit of examination in which this Court would look into the aspect as to whether the relevant factors were taken into consideration or whether the decision is based on extraneous consideration or vitiated by *mala fide*. The present impugned order dated 09.01.2026 clearly appears to be based on relevant factors. That being the position, this Court is not required to go into the aspect of the objection raised on the availability of an alternative remedy in the form of Section 233 of the Assam Municipal Act.

19. Writ petition accordingly stands dismissed.

JUDGE

Comparing Assistant