

GAHC010161092026



2026:GAU-AS:12282

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

Case No. : WP(C)/4126/2026

KAHINOOR FURNITURE HOUSE
AT DHEKIAJULI TOWN, WARD NO. 5, REPRESENTED BY ITS PROPRIETOR
KACHEM ALI, (AGED ABOUT 39 YEARS), S/O LATE ISRAHIL ALI, VILLAGE-
KEHERUKHUNDA, P.O. DHEKIAJULI, P.S. DHEKIAJULI, DISTRICT-
SONITPUR, ASSAM, PIN- 784110.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI, ASSAM, PIN-781006.

2:THE SPECIAL CHIEF SECRETARY
ENVIRONMENT
FOREST AND CLIMATE CHANGE DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI
ASSAM
PIN-781006.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI-781037.

4:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
P.O. AND P.S. TEZPUR
DISTRICT- SONITPUR

ASSAM
PIN-784001

5:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE
P.O. DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN-784110.

6:THE DISTRICT COMMISSIONER
SONITPUR
P.O. AND P.S. TEZPUR
DISTRICT- SONITPUR
ASSAM
PIN-784001.

7:THE SUPERINTENDENT OF POLICE
SONITPUR
P.O. AND P.S. TEZPUR
DISTRICT- SONITPUR
ASSAM
PIN-784001.

8:THE CO DISTRICT COMMISSIONER
DHEKIAJULI CO DISTRICT
P.O. DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

9:THE DHEKIAJULI MUNICIPAL BOARD
REPRESENTED BY THE EXECUTIVE OFFICER
P.O.- DHEKIAJULI
P.S.- DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

10:THE OFFICER-IN-CHARGE
DHEKIAJULI POLICE STATION
P.O. DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 78411

Linked Case : WP(C)/3652/2026

MD. SALEH AHMED
S/O LATE SAMIR UDDIN AHMED
RESIDENT OF WARD NO. 6
DHEKIAJULI P.O. AND P.S. DHEKIAJULI
DIST- SONITPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
DEPARTMENT OF HOUSING AND URBAN AFFAIRS
ASSAM SECRETARIAT
DISPUR
GUWAHATI-6.

2:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
TEZPUR
DIST- SONITPUR
ASSAM

3:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE
DHEKIAJULI
P.O. DHEKIAJULI
DIST-SONITPUR
ASSAM
PIN- 784110.

4:THE DHEKIAJULI MUNICIPAL BOARD
REPRESENTED BY ITS EXECUTIVE OFFICER
SWAHID NAGARI
DHEKIAJULI
P.O. DHEKIAJULI
PIN- 784110
DIST- SONITPUR
ASSAM.

Linked Case : WP(C)/4129/2026

M/S ASLAM FURNITURE INDUSTRY
AT VILLAGE- GARPARA GAON AND DHEKIAJULI TOWN
REPRESENTED BY ITS PROPRIETOR NAMELY
ASLAM ALAM MANSURI
(AGED ABOUT 31 YEARS)
SON OF LATE NIZAM UDDIN MANSURI
RESIDENT OF WARD NO. 2
DHEKIAJULI TOWN
P.O. DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM
DISPUR
GUWAHATI
ASSAM
PIN- 781006.

2:THE SPECIAL CHIEF SECRETARY
ENVIRONMENT
FOREST AND CLIMATE CHANGE DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI
ASSAM
PIN- 781006.

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
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ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI-781037.

4:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
P.O. AND P.S.- TEZPUR
DISTRICT- SONITPUR
ASSAM

PIN- 784001

5:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE
P.O.- DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

6:THE DISTRICT COMMISSIONER
SONITPUR
P.O. AND P.S. TEZPUR
DISTRICT- SONITPUR
ASSAM
PIN- 784001

7:THE SUPERINTENDENT OF POLICE
SONITPUR
P.O. AND P.S. TEZPUR
DISTRICT- SONITPUR
ASSAM
PIN- 784001

8:THE CO-DISTRICT COMMISSIONER
DHEKIAJULI CO-DISTRICT
P.O. DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

9:THE DHEKIAJULI MUNICIPAL BOARD
REPRESENTED BY THE EXECUTIVE OFFICER
P.O.- DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

10:THE OFFICER-IN-CHARGE
DHEKIAJULI POLICE STATION
P.O.- DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

Linked Case : WP(C)/3648/2026

M/S HUSSAIN FURNITURE
DHEKIAJULI
REPRESENTED BY THE PROPRIETOR NAMELY
SADDAM HUSSAIN
(AGE 34 YEARS) SON OF IKRAMUL HOQUE
RESIDENT OF WARD NO.6
DHEKIAJULI TOWN
P.O- DHEKIAJULI
P.S DHEKIAJULI
DISTRICT-SONITPUR
ASSAM
PIN- 784110

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI
ASSAM
PIN-781006

2:THE SPECIAL CHIEF SECRETARY
ENVIRONMENT
FOREST AND CLIMAT CHANGE DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
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ASSAM
PIN-781006

3:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI- 781037

4:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
P.O AND P.S TEZPUR
DISTRICT- SONITPUR
ASSAM
PIN- 784001

5:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE
P.O- DHEKIAJULI
P.S DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN-784110

6:THE DISTRICT COMMISSIONER
SONITPUR
P.O AND P.S TEZPUR
DISTRICT SONITPUR
ASSAM
PIN-784001

7:THE SUPERINTENDENT OF POLICE
SONITPUR
P.O AND P.S TEZPUR
DISTRICT-SONITPUR
ASSAM
PIN- 784001

8:THE CO-DISTRICT COMMISSIONER
DHEKIAJULI CO-DISTRICT
P.O DHEKIAJULI
P.S DHEKIAJULI
DISTRICT-SONITPUR
ASSAM
PIN-784110

9:THE DHEKIAJULI MUNICIPAL BOARD
REPRESENTED BY THE EXECUTIVE OFFICER
P.O- DHEKIAJULI
P.S DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

10:THE OFFICER-IN-CHARGE
DHEKIAJULI POLICE STATION
P.O. DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT-SONITPUR
ASSAM
PIN-784110

Linked Case : WP(C)/3885/2026

FAKAR UDDIN AHMED
S/O LATE MIYA HUSSAIN
VILL. BALISHIA
P.O. P.S.-DHEKIAJULI
DISTRICT-SONITPUR
ASSAM.

VERSUS

THE STATE OF ASSAM AND OTHERS
REPRESENTED BY THE COMMISSIONER SECRETARY TO THE
GOVERNMENT OF ASSAM
DEPARTMENT OF HOUSING URBAN AFFAIRS
ASSAM SECRETARIAT
DISPUR
GUWAHATI 781006.

2:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
TEZPUR
DISTRICT SONITPUR
ASSAM.

3:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE

DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN-784110

4:THE DHEKIAJULI MUNICIPAL BOARD
REP. BY ITS EXECUTIVE OFFICER

SWAHID NAGARI
DHEKIAJULI
P.O- DHEKIAJULI
PIN-784110
DIST- SONITPUR
ASSAM

Linked Case : WP(C)/3646/2026

SAJID SHEIKH
S/O ABDUL GAFUR SHEIKH
RESIDENT OF WARD NO. 1
DHEKIAJULI
P.O. AND P.S. DHEKIAJULI
DIST SONITPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
DEPARTMENT OF HOUSING AND URBAN AFFAIRS
ASSAM SECRETARIAT
DISPUR
GUWAHATI-6.

2:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
TEZPUR
DIST SONITPUR
ASSAM

3:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE
DHEKIAJULI
P.O. DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN- 784110

4:THE DHEKIAJULI MUNICIPAL BOARD
REPRESENTED BY ITS EXECUTIVE OFFICER
SWAHID NAGARI
DHEKIAJULI
P.O. DHEKIAJULI
PIN 784110 DIST SONITPUR (ASSAM)

Linked Case : WP(C)/3649/2026

ABDUL GAFUR SEKH
S/O LATE SUKUR ALI SEKH
RESIDENT OF WARD NO. 1
DHEKIAJULI

P.O. AND P.S. DHEKIAJULI
DIST-SONITPUR
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
DEPARTMENT OF HOUSING AND URBAN AFFAIRS
ASSAM SECRETARIAT
DISPUR
GUWAHATI-6.

2:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
TEZPUR
DIST- SONITPUR
ASSAM

3:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE
DHEKIAJULI
P.O. DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN -784110.

4:THE DHEKIAJULI MUNICIPAL BOARD
REPRESENTED BY ITS EXECUTIVE OFFICER
SWAHID NAGARI
DHEKIAJULI
P.O. DHEKIAJULI
PIN- 784110
DIST- SONITPUR
ASSAM

Linked Case : WP(C)/4036/2026

KHUSI MANSURI
D/O SAJID MANSURI
RESIDENT OF WARD NO. 1
DHEKIAJULI
P.O. AND P.S. DHEKIAJULI
DIST- SONITPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SPECIAL CHIEF SECRETARY TO THE GOVERNMENT
OF ASSAM
DEPARTMENT OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
DISPUR
GUWAHATI-06.

2:THE DIVISIONAL FOREST OFFICER
SONITPUR WEST DIVISION
TEZPUR
DIST- SONITPUR
ASSAM

3:THE RANGE FOREST OFFICER
DHEKIAJULI RANGE
DHEKIAJULI
P.O. DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN -784110.

4:THE DHEKIAJULI MUNICIPAL BOARD
REPRESENTED BY ITS EXECUTIVE OFFICER SWAHID NAGARI
DHEKIAJULI
P.O. DHEKIAJULI
PIN -784110
DIST-SONITPUR ASSAM

Linked Case : WP(C)/4133/2026

ASLAM FURNITURE HOUSE
AT DHEKIAJULI TOWN
WARD NO. 5
REPRESENTED BY ITS PROPRIETOR JAYNAL
AGED ABOUT 47 YEARS
S/O LATE JAMAL UDDIN
VILLAGE- 2 NO. MEDHI CHUBURI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM
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ASSAM
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2:THE SPECIAL CHIEF SECRETARY
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ARANYA BHAWAN
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GUWAHATI-781037.

4:THE DIVISIONAL FOREST OFFICER
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DISTRICT- SONITPUR
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SONITPUR
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REPRESENTED BY THE EXECUTIVE OFFICER
P.O. DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

10:THE OFFICER-IN-CHARGE
DHEKIAJULI POLICE STATION
P.O.- DHEKIAJULI
P.S. DHEKIAJULI
DISTRICT- SONITPUR
ASSAM
PIN- 784110

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the Petitioner(s) : Mr. A. M. Ahmed, Advocate

Advocate for the Respondent(s) : Mr. D. Gogoi, SC, Forest
Mr. H. Sarmah,
Addl. Sr. Govt. Advocate

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 24.08.2026

Whether the pronouncement is of the
Operative part of the judgment? : Yes

Whether the full judgment has been
Pronounced? : No.

JUDGMENT AND ORDER (ORAL)

Heard Mr. A. M. Ahmed, the learned counsel appearing on behalf of the Petitioners in the present batch of writ petitions. Mr. D. Gogoi, the learned Standing Counsel appears on behalf of the Forest Department of the Government of Assam and Mr. H. Sarmah, the learned Additional Senior Government Advocate appears on behalf of the District Commissioner, Sonitpur; the Superintendent of Police, Sonitpur; the Co-District Commissioner, Dhekiajuli as well as the Officer-in-Charge, Dhekiajuli Police Station.

PREFACE

2. The present batch of writ petitions have been filed challenging the action on the part of the officials of the Forest Department of the Government of Assam in sealing the business premises of the Petitioners and initiating confiscation proceedings of the seized furniture from the Petitioners business premises.

3. Taking into account the similarity in the issues involved in

present batch of writ petitions, they are taken up for disposal by this common judgment and order.

BRIEF FACTS OF THE CASE

4. From a perusal of the contents of the writ petitions, it appears that the Petitioners in the batch of writ petitions are carrying on business of manufacture and sale of wooden furniture. They have obtained registration under the applicable GST laws and have also been issued trade licenses by the Dhekiajuli Municipal Board.

5. It is alleged that some time in the third week of May, 2026, personnel from the Dhekiajuli Forest Range visited the business premises of the Petitioners and enquired about their registration under the Assam Wood-Based Industries (Promotion and Development) Rules, 2022 (for short, 'the Rules of 2022'). It is claimed by the Petitioners that the personnel from the Forest Department informed the Petitioners that they were not required under the Rules of 2022 to register as they had less than ten labourers engaged.

6. On 30.05.2026, the Forest Range Officer, Dhekiajuli Forest Range, the Co-District Commissioner of Dhekiajuli Co-District and the Executive Officer along with employees of Dhekiajuli Municipal Board came to the Petitioners' business premises and

sealed the premises without issuing any notice or show-cause. In addition to that, the furnitures which were inside the Petitioners' business premises were seized. It is also the case of the Petitioners that furnitures stored in the Petitioners' business premises were taken away by the Respondent Authorities. It is under such circumstances, the Petitioners in the present batch of the writ petition have approached this Court by filing the present batch of writ petitions. It is relevant at this stage to note that the Petitioners after their business premises were sealed have taken steps for registration under the Rules of 2022, which would be apparent from a perusal of the online payment receipts of Rs.2,000/- each enclosed to the various writ petitions.

7. In the present batch of writ petitions, except the three writ petitions which have been listed for the first time today, i.e. WP(C) No.4126/2026; WP(C) No.4129/2026 and WP(C) No.4133/2026 notices were issued. The records reveal that in some of the writ petitions, the Divisional Forest Officer, Sonitpur West Division, Tezpur had filed affidavits-in-opposition.

8. In the affidavits-in-opposition, it was mentioned that the Range Forest Officer, Dhekiajuli issued Office Order No.10 dated 08.10.2024 directing all wood-based and Furniture Units within the Range jurisdiction to obtain mandatory registration under the Rules of 2022. It is also mentioned that in order to accommodate

the operators and promote compliance, a subsequent opportunity was provided by the Office Order No.07 dated 14.05.2026 directing all unregistered units to regularize and complete the registration process. In spite of the extensive windows of opportunity being provided to various establishments like the Petitioners, they continued to remain unregistered while carrying on their unauthorized commercial operations using timber of non-exempted species without valid transit passes/challans. It was further stated that under such circumstances, offence reports were registered and physical inventories were seized. Further to that, statutory notices in Form 31B under the provisions of the Assam Forest Regulations, 1891 (for short, 'the Regulation') were issued initiating confiscation proceedings. The Respondents in their affidavit-in-opposition alleged that the action on the part of the Petitioners constituted a direct violation to Rules 8, 15, 16 and 17 of the Rules of 2022 as well as Sections 34, 35, 40, 41, 49, 51 and 63 of the Regulation.

9. In the backdrop of the above, this Court has duly heard the learned counsels appearing on the parties whose submissions have been made on the basis of their respective pleadings. For the sake of brevity, the same are not repeated.

POINTS FOR DETERMINATION

- (i) Whether the Petitioners who admittedly carry on the business of manufacture and sale of furnitures made out of wood products are required to be registered under the provisions of the Rules of 2022?
- (ii) Whether without registration under the Rules of 2022, the Petitioners can be permitted to carry on their business of manufacture and sale of furnitures made out of wood products?
- (ii) Whether the impugned actions on the part of the Respondent Authorities calls for interference?
- (iv) What relief or reliefs are the parties entitled to?

FIRST AND SECOND POINTS FOR DETERMINATION

10. Both the Points for Determination are taken up together. For determination of the same, it is relevant to take note of some of the provisions of the Regulation as well as the Rules of 2022. A perusal of the Regulation would show that power is conferred upon the State Government by Section 40 of the Regulation to make Rules. A perusal of the Rules of 2022 would show that the State Government in exercise of the power conferred under Section 40 (2) of the Regulation made the Rules of 2022. At this stage, it is also relevant to take note of Section 41 of the

Regulation which provides the penalty for the breach of the Rules made under Section 40 of the Regulation. Section 41 of the Regulation being relevant is reproduced herein under:-

“41. Penalties for breach of rules under the last foregoing section- (1)

The State Government may, by a rule under the last foregoing section, attach to the breach of any rule under that section any punishment not exceeding imprisonment for a term which may extend to three years or fine which may extend to five thousand rupees, or both.

(2) In cases where the offence is committed after sunset and before sunrise or after preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Court may inflict double the penalty prescribed for such offences.”

11. From a perusal of the Sub-Section (1) of Section 41 of the Regulation would show that the State Government who is empowered to make Rules under Section 40 of the Regulation is also empowered to attach a provision for the breach of the Rules any punishment not exceeding imprisonment for a term which may extend to three years or fine which may extend to Rs.5,000/-. It is stipulated that in case where the offence is committed after sunset and before sunrise or after preparation for resistance to the execution of any law or any legal process or where the offender has been previously convicted of a like

offence, the convicting Court may inflict double the penalty which is attached to the breach of the Rules. This Section is relevant while analyzing the Rules of 2022 and the actions impugned in the present proceedings.

12. The Rules of 2022 were made which came into operation w.e.f. 12.01.2023. A perusal of Rule 2 of the Rules of 2022 would show that various terms have been defined. For the purpose of the instant case, it is relevant to take the definition of Rule 2(q) which defines the term "Furniture Unit". The said Rule 2(q) being relevant is reproduced herein under:-

“(q) "Furniture Unit" means plants and machinery and the premises including the precincts thereof in which or in any part thereof wood-based finished products are manufactured using sawn timber, cane, bamboo, reed, plywood or any other wood-based product, except a round log, outsourced from licensed wood based industrial units or other legitimate sources and operating without a band saw or re-saw or circular saw of more than thirty-centimetre diameter, employing not less than 10 labourers.”

13. From a perusal of the above quoted definition, it would show that a Furniture Unit means any plant and machinery and premises including the precincts thereof in which or in any part thereof wood-based finished products are manufactured using saw timber, cane, bamboo, reed, plywood or any other wood-based products except a round log, outsourced from licensed

wood-based industrial unit or other legitimate sources and operating and operating without a band saw or a re-saw or a circular saw of more than 30 cm diameter and employing not less than 10 labourers. In other words, to come within the ambit of the definition of a "Furniture Unit", it has to be solely a manufacturing unit and the employment of labourers has to be 10 or more.

14. Rule 2(ag) of the Rules of 2022 defines the term "Registering Authority" to mean the Divisional Forest Officer having jurisdiction over a particular secondary Wood-Based Industrial Unit under the Rules of 2022. Rule 2(ao) of the Rules of 2022 defines "Wood-Based Industrial Unit". Clauses I, II and III of Rule 2(ao) of the Rules of 2022 defines the terms "Primary Wood-Based Industrial Unit", "Secondary Wood-Based Industrial Unit" and "Composite Wood-Based Industrial Unit" respectively. Taking into account the relevance, Rule 2(ao) of the Rules of 2022 is reproduced herein under:-

(ao) "Wood-Based Industrial Unit" means any industry which processes wood as its raw material (Saw mills, veneer, plywood, pulp or any other form such as sandal, katha wood, Agar wood etc.).

I. "Primary Wood-Based Industrial Unit" means any Wood-Based Industrial Unit which processes wood (Round logs) as its raw

material, having a band saw or re-saw or circular saw of more than thirty centimetres in diameter, such as, but not limited to, Saw Mills, veneer mills, plywood mills etc or other wood-based industries or any other such Unit, which require a license under these rules to establish, run and operate;

II. "Secondary Wood-Based Industrial Unit" means Wood-Based Industrial Unit or processing, manufacturing units, plants or commercial shops or furniture units such as, but not limited to, hard board, particle board, Block board, Medium Density Fibre board manufacturing units (solely using sawn timber as raw material), not operating with a band saw or re-saw or circular saw of more than thirty centimetres in diameter, or,

(A) not using Round logs, as defined in these rules, such as units using solely,-

(i) sawn timber, cane, bamboo, reeds, plywood, veneers, and other Non-Timber Forest Produce etc;

(ii) block board, Medium Density Fibre board or similar wood-based products;

(B) using timber of species, such as,-

(i) Agar (Aquilaria malaccensis) or any other species of the genus Aquilaria from which essential oils and other derivatives such as Agar chips and extraction of Agar Oil are extracted;

(ii) Sandalwood (Santalum album) for processing of Sandalwood oil, Sandalwood carvings and other

derivatives thereof;

III. "Composite Wood-Based Industrial Unit" means a Wood-Based Industrial Unit combining partly or fully features, characteristics, properties, nature of a Primary Wood-Based Industrial Unit as well as in full or part that of Secondary Wood-Based Industrial Unit as defined in these rules, such as, units manufacturing Block Board, Medium Density Fibre Board, Match Wood factories, Units having Saw Mills, Joinery Units, furniture Units, seasoning plants in combination, stand-alone Seasoning and Timber treatment units etc."

15. From a perusal of the above quoted Rule 2(ao) of the Rules of 2022 would show at Clause I, "Primary Wood-Based Industrial Unit" is defined to mean any Wood-Based Industrial Unit which processes wood (round logs) as its raw material having a band saw or a re-saw or circular saw of more than 30 centimeters in diameter and such Wood-Based Industrial Unit would require a license under the Rules of 2022 to establish, run and operate.

16. The "Secondary Wood-Based Industrial Unit" is defined in Clause II to mean Wood-Based Industrial Unit of processing, manufacturing unit, plants or commercial shops or furniture units who are not operating with the band saw or a re-saw or a circular saw of more than 30 cm in diameter or not using round logs or using timber of species such as agar, sandal wood. Sub-Clauses (A) and (B) further stipulates which wood-based

industries would not fall within the definition of "Secondary Wood-based Industrial unit". It is however of relevance to take note of that commercial shop and furniture unit are both included within the meaning of Secondary Wood-Based Industrial Unit. This aspect has relevance in as much as it is the claim of the Petitioners that they are in the business of manufacturing and sale of wood-based products.

17. Composite Wood-Based Industrial Unit appears to be a combination of a unit which is partly or fully features characteristics, properties, nature of a Primary Wood-Based Industrial Unit as well as in full or part that of a Secondary Wood-Based Industrial Unit.

18. From the above definition of Wood-Based Industrial Unit, it is apparently clear that as the Petitioners claim that they are carrying on the business of manufacture and sale of wood-based products, they would come within the definition of "Secondary Wood-Based Industrial Unit". The fact that they have not employed 10 or more labourers would have no relevance as they would come within the ambit of commercial shop.

19. Rule 7 of the Rules of 2022 specifically deals with Primary and Composite Wood-based Industry. Rule 7(1) of the Rules of 2022 mandate that no Primary and Composite Wood-Based

Industrial Units shall be established or operated in the State without a valid license granted under the Rules of 2022. The manner in which such licenses are to be granted or renewed etc. have been mentioned in the various Sub-Rules of Rule 7 of the Rules of 2022. It is of importance to note that not only Rule 2(ao)(1) makes it clear that Primary Wood-Based Industrials Unit would require a license to operate but Rule 7(1) of the Rules of 2022 puts an injunction that to run a Primary or Composite Wood-Based Industry, a license has to be obtained.

20. Rule 8 of the Rules of 2022 is of relevance in as much as the said Rule deals with the Secondary Wood-based Industrial Unit and as opined earlier, the Petitioners would come within the definition of Secondary Wood-Based Industrial Unit. For the purpose of convenience, this Court finds it relevant to reproduce Rule 8(A) as the same deals with the provisions for establishment, operation, renewal of Secondary Wood-Based Industries (other than Agar Wood-Based Industrial Units).

“8. (A) Provisions for establishment, operation, renewal of Secondary Wood Based Industries (Other than Agar Wood Based Industrial Units):

(i) All Secondary Wood-Based Industries that are covered under this rule such as Furniture units, units using Block Board, Medium Density Fibre Board, Sawn timber, cane,

bamboo, reeds, plywood, veneers, and other Non-Timber Forest Produce etc., shall obtain registration under these rules. However, any Secondary Wood-Based Industry that is a part of a Composite Wood-Based Industrial Unit shall not require a separate registration under these rules. The State Level Committee shall issue a single License to the Composite Wood-Based Industrial Unit mentioning all the Wood-Based Industrial Units. However, the requisite License, registration, renewal fees shall be required to be paid as applicable to each of the individual units under these rules.

(ii) Any person, seeking registration under these rules, shall make an online application as per FORM-IX to the Divisional Forest Officer concerned in online mode through the website or portal.

(iii) Each application shall be accompanied by a non-refundable application fee of Rs 2000/- (Rupees Two Thousand Only) payable in online mode through the website or portal.

(iv) Registration Committee as defined under these rules, shall be constituted for each territorial Circle, with the following Official Members: -

*(a) Circle Chief Conservator or Conservator concerned —
Chairman*

*(b) Representative of Deputy Commissioner or Sub
Divisional Officer (Civil) — Member*

(c) General Manager Industry or his representative — Member

(d) Divisional Forest Officer concerned — Member Secretary

(v) The Registration Committee shall submit a quarterly report, on disposal of applications for registration, to the State Level Committee.

(vi) On successful submission of the online application in FORM-IX, the portal shall automatically generate an acknowledgement receipt with seal and date and the same shall be issued online to the applicant. The application shall be scrutinized by the Divisional Forest Officer concerned for its completeness and he shall examine the factual details, feasibility of the proposal including availability of raw materials, carry out site inspection etc. for establishment or expansion of the Secondary Wood-Based Industry. Any deficiency in the application shall be communicated online to the applicant for correction. The applicant may rectify the deficiencies and re-submit the application online. The Divisional Forest Officer concerned, once satisfied with the completeness of the said application shall forward his findings, comments, recommendation along with certified maps, GIS location Maps and proper Geo-Coordinates, to the Registration Committee concerned within 30 (Thirty) working days from the date of receipt

of the complete application.

(vii) After considering the application form in all aspects, the Registration Committee may dispose the application, as it deems fit, after making appropriate inquiries, if required, in 25 (twenty-five) working days.

(viii) Final approval for issue of Registration Certificate shall be subject to deposition of one-time payment of non-refundable registration fee to the tune of Rs. 50,000/- (Rupees Fifty Thousand Only) to the Department or as determined by the Registration Committee as and when required from time to time, in online mode through the website or portal.

(ix) On being approved by the Registration Committee for issue of Registration Certificate, the same shall be communicated online to the Divisional Forest Officer concerned, with copy to all concerned.

(x) The Divisional Forest Officer concerned, after receiving all the applicable fees, may then issue a Registration Certificate, within 07 days of the receipt of said communication from the Registration Committee, in the FORM-X. In case any discrepancy is noticed in the application or supporting documents at any point of time during application process or even after grant or renewal of Registration, it may be cancelled by the Divisional Forest Officer concerned with the prior approval of the

Registration Committee.

(xi) The Registration granted under this Rule shall remain valid for 5 (Five) years, from the date of such issue or renewal of Registration. However, notwithstanding anything contained under these rules, the Registering Authority may, where there are reasons to believe that the Registration Certificate Holder Secondary Wood-Based Industry in contravention of conditions of the provisions of these rules or Registration or any rules framed by the Government of Assam or is in activities prejudicial to the interest of forest conservation or public interest, at any time after giving one month notice, suspend the Registration granted to such Wood-Based Industry. The matter shall be placed online by the Divisional Forest Officer before the Registration Committee concerned within 30 (thirty) working days of issuance of suspension order. The Registration Committee may take further action i.e. either revoke the Registration in question or lift the suspension, as the case may be within 30 (thirty) working days. No decision to revoke the registration shall be taken without giving the holder a Certificate reasonable Registration opportunity of being heard.

(xii) Registration issued is not transferable without the prior approval from the Registration Committee.

(xiii) Application for renewal of Registration Certificate

granted under these rules shall be made by the Registration Certificate Holder of Secondary Wood-Based Industry seeking renewal, to the Divisional Forest Officer concerned, in FORM-XI, not later than 3 (Three) months before the expiry of the Registration Certificate.

(xiv) On successful submission of the online application in FORM-XI an acknowledgement receipt with seal and date and the same shall be issued online to the applicant. The application shall be scrutinized by the Divisional Forest Officer concerned for its completeness and he shall examine the factual details, feasibility of the proposal including availability of raw materials, quarterly returns submitted by the Secondary Wood-Based Industrial Unit concerned, any history of offence etc. Any deficiency in the application shall be communicated online to the applicant for correction. The applicant may rectify the deficiencies and re-submit the Application online. The Divisional Forest Officer concerned, once satisfied with the completeness of the said application shall forward his findings, comments, recommendation, to the Registration Committee concerned within 30 (Thirty) working days from the date of receipt of the complete application.

(xv) A late fee at the rate of Rs. 200/- (Rupees Two Hundred Only) per day shall be levied from Registration holder for failing to submit the renewal application for

License from the 1st day of last three months of the expiry of Registration period. Thereafter, late fee at the rate of Rs. 500/- (Rupees Five Hundred only) per day from 1st day after the expiry of the Registration till the application for renewal is received from the Registration holder. The entire late fee shall be deposited in online mode through the website or portal.

(xvi) All applications submitted with a delay for renewal of Secondary Wood-Based Industrial units shall invariably accompany with a copy of late fee payment receipt, acknowledgement slip, transaction slip along with the application form as prescribed under rule 8 (A) (xiii).

(xvii) Each application shall be accompanied by a non-refundable application fee to the tune of Rs. 10,000/- (Rupees Ten Thousand Only) paid in online mode through the website or portal.

(xviii) Renewal of Registration shall be made as per the recommendation of the Registration Committee subject to payment of renewal fee to the tune of Rs. 10,000/- (Rupees Ten Thousand Only) paid in online mode through the website or portal.

(xix) The Registration Committee after due examination or conducting such enquiry, as deems fit, and within a period of 30 (thirty) working days from the date of

receipt of such application, shall either renew or refuse to renew the Registration:

Provided that no Registration shall be renewed unless it is satisfied about the location, availability of raw materials, financial capacity and past records in business of such person. Where the Registration Committee refuses to renew Registration, it shall record the reasons therefore and such reasons shall be communicated to the person in writing.

(XX) Registering Authority shall grant Renewal of Registration within 7 (seven) days of communication of approval of the Registration Committee Renewal of Registration shall be made in the FORM-XII.

(XXI) In the event, the Registration Committee finds that the proposal is incomplete or factually incorrect and refuses to renew Registration, the applicant may apply afresh after providing the additional information or rectification of data etc. on payment of the applicable late fee with effect from 1st day after the expiry of Registration till the date of submission of the application for consideration by the Registration Committee.

(xxii) No application for grant or renewal of Registration shall be rejected without giving an opportunity of being heard to the holder of such a Registration for presenting his case before the Registration Committee unless the

Registration committee is satisfied that,-

(a) any statement made by the person while making application for grant or renewal of the registration was incorrect or materially false or incomplete;

(b) such person has contravened any of the terms or conditions of the Registration or any provision of the act or this rules or committed an offence under the Act.

(xxiii) Terms and conditions of Registration issued under this rule:

(a) Every Registration Certificate Holder shall submit to the authorized officer concerned a quarterly report on opening stock balance, receipt of raw materials, conversion, dispatch of converted product and closing stock balance of forest produce, within 7 (seven) days of the expiry of the period of the said three months in FORM-XVI appended to these rules which shall be compiled from the Register maintained in the FORM-XIII, XIV and XV appended to these rules.

(b) Shall not be usually transferable as a matter of right except to legal heirs as decided by the Registration Committee.

(c) Breach of any of the above conditions or infringement of any law of the State for the time being

in force will render this Registration to be cancelled.

(d) Repeated commission of forest offence for 3 (three) times shall render Registration liable for cancellation.

(e) In the event of any dispute arising between the holder of this Registration and the Forest Department as regards interpretation of rules made in the License or in its execution, the decision of the Zonal in-charge shall be final and binding on all concerned."

21. A perusal of the heading of Rule 8(A) as quoted hereinabove would show that provisions are laid down for establishment, operation, renewal of Secondary Wood-Based Industries (Other than Agar Wood-Based Industrial Unit). From the very heading it is apparent that to establish/operate/renew, a Secondary Wood-Based Industry has to register themselves under the Rule of 2022.

22. The above therefore decides the first and second points for determination thereby opining that the Petitioners business premises would come within the ambit of commercial shop and to operate the same, the Petitioners have to get themselves registered under the provisions of the Rules of 2022 as a Secondary Wood-Based Industrial Unit.

23. Before taking up the remaining points for determination, this Court finds it necessary to further analyse the provisions of

the Rules of 2022.

24. Proceeding further on the analysis of Rule 8(A) of the Rules of 2022, it would show that the manner in which registration is to be applied; how such application would be considered; what are the fees to be paid; when such registration would be cancelled; whether such registration is transferable and if so when; etc. are prescribed. It is however relevant to observe that for grant of registration, the Rule 8(A) of the Rules of 2022 provides certain timelines. Taking into account that the Petitioners herein have applied, this Court finds it apposite to deal briefly on the said aspect. The stages are:-

(A) Application has to be submitted online in Form IX. {Rule 8A(ii)}.

(B) Prescribed fee of Rs.2,000/- has to be paid {Rule 8A(iii)}.

(C) An acknowledgement would be automatically generated. The acknowledgement is of relevance as the timeline for grant of registration certificate would count therefrom {Rule 8A(iv)}.

(D) The Divisional Forest Officer within 30 working days from the date of receipt of a complete application would forward his findings to the Registration Committee so

constituted in terms with Rule 8A(iv). {Rule 8A(vi)}.

(E) The Registration Committee shall dispose of the application as it deems fit after making appropriate enquiries within 25 working days. {Rule 8A(vii)}.

(F) Upon final approval granted for issuance of the Registration Certificate, the applicant has to pay a one-time payment of non-refundable registration fee of Rs.50,000/- to the Department. {Rule 8A(viii)}.

(G) The Divisional Forest Officer who would be informed by the Registration Committee for issuance of registration upon receipt of the non-refundable deposit of Rs.50,000/- would issue the Registration Certificate within 7 days in Form X.

25. It is of importance to note that Rule 8A of the Rules of 2022 do not mention the consequences for non-registration.

26. Rules 9, 10, 11 and 13 of the Rules of 2022 relate to relocation of wood-based industry; payment for the Green Fund; Transfer of the Registration/License; Review of Suspension or cancellation order respectively. The said Rules are not dealt with in detail as they relate to such course of action after registration and would have no material bearing in respect to the present dispute as in the present batch of writ petitions, actions were taken by the Respondents in the Forest Department on account

of non-registration.

27. Rule 15 of the Rules of 2022 relates to maintenance of records. The said Rule 15 is reproduced herein under:-

“15. (1) Each Wood-Based Industry shall maintain and regularly update records in Forms prescribed for each category of Wood-Based Industry i.e., FORM-V, VI and VII for Primary Wood-Based Industries, FORM-XIII, XIV, XV for Secondary Wood-Based Industries (Other than Agarwood based Industries) and FORM- XXI, XXII and XXIII-A and B for Agarwood related Secondary Wood-Based Industries, appended to these rules.

(2) Every Licensee or Registration Certificate holder shall submit to the Authorized Officer concerned a quarterly report, within seven days of the expiry of the period of the said three months in FORM-VIII, FORM-XVI and FORM-XXIV for Primary, Secondary (other than Agarwood) and Agarwood related Secondary Wood-Based Industries respectively appended to these rules which shall be compiled from the Register maintained in the Forms detailed above under sub-rule (I) above.

(3) Any kind of forest produce, be it a raw material, processed or manufactured item, entering or leaving a Wood-Based Industry or its premises shall be covered by a transit pass, transit challan duly issued by Forest Department of Assam under the provisions of the Act.”

28. From a perusal of the above quoted Rule 15 of the Rules of 2022, it would show that all Wood-Based Industrial Units are required to maintain records and update the same. In so far as a Secondary Wood-Based Industrial Unit shall do so in Form-XIII, XIV and XV. It is also the requirement for a Secondary Wood-Based Industrial Unit (other than Agar wood) to submit a quarterly return to the Authorized Officer in Form-XVI. It is also stipulated that any kind of forest produce be it raw material, processed or manufactured items entering a Wood-Based Industrial Unit on its premises shall be covered by a transit pass, transit challan duly issued by the Forest Department of Assam under the provisions of the Regulation. It has also to be understood that the requirement as set out in Rule 15 of the Rules of 2022 in so far as it relates to a Secondary Wood-Based Industrial Unit is when such an Industrial Unit had registered itself under the Rules of 2022.

29. Rule 17 of the Rules of 2022 is of importance. The said Rule is reproduced herein under:-

“17. All Wood-Based Industries will follow all environmental and other regulations prescribed by the State Pollution Control Board, Central Pollution Control Board and Ministry of Environment, Forest and Climate Change as applicable to these industries under the Environment (Protection) Act, 1986 and other Central and State

Acts. Any violation of these rules or any offence committed under the Assam Forest Regulation, 1891, within the Wood-Based Industry premises or otherwise, shall be punishable under the relevant provisions of Assam Forest Regulation, 1891 as amended up-to-date or otherwise mentioned in this rules and other rules or as prescribed by the State Level Committee from time to time. Repeated commission of forest offence for 3 (Three) times shall make the License, Registration liable for cancellation."

30. A perusal of the above Rule in so far as it relates to the dispute involved in the present proceedings is that any violation of the Rules of 2022 shall be punishable under the relevant provisions of the Regulation. There is no mention as to which particular provision of the Regulation. At this stage, if this Court refers to Section 41 of the Regulation, it would show that the State Government was conferred with the power to attach to the Rules made under Section 40 of the Regulation any punishment not exceeding imprisonment for a term which may extend to 3 years as fine which may extend to Rs.5,000/- or both. A deeper probe into Rule 17 of the Rules of 2022 shows that instead of attaching a punishment for the breach of the Rules, a vague stipulation is contained that it shall be punishable under the **relevant** provisions of Regulation. The use of the word 'relevant' is also of importance in as much as there has to be applicable provisions in the Regulation which imposes a punishment for the

breach of the Rules made under Section 40 of the Regulation.

THIRD POINT FOR DETERMINATION

31. Section 3(5) of the Regulation defines the term 'forest offence'. The said definition is reproduced herein under:

"3(5) "forest offence" means an offence punishable under this Regulation or any rule thereunder.'

32. A perusal of the above definition would show that in order to be a forest offence, it has to be an offence punishable under the Regulation or any Rule thereunder.

33. Rule 17 of the Rules of 2022 do not stipulate the punishment, but rather mandates that breach of the Rules of 2022 would be punishable under the relevant provisions of the Regulation. A perusal of the Regulation would show the Regulation specifies specifically in the context of what offence what would be the punishment.

Sections 24 and 25 of the Regulation stipulates punishment specific to the offences described therein.

Section 33 of the Regulation though stipulates punishment, but the same is only with respect to infringement of Section 33 of the Regulation.

Section 41 of the Regulation permitted the State Government to make attach punishment to the breach of the Rules framed

under Section 40 of the Regulation. However, the Rules of 2022 are silent on the said aspect. Rather refers to the Regulation.

Sections 58 and 59 of the Regulation do not prescribe any punishment for breach of the Rules framed under the Regulation.

Therefore, from the above referred provisions, it is apparently clear that the Regulation do not provide any punishment for breach of the Rules or for that matter the breach to the Rules of 2022.

34. The above analysis would make it apparent that for the breach of the stipulations contained in the Rules of 2022, there is no punishment. Under such circumstances, as there is no punishment, any breach of the Rules of 2022 would not come within the ambit of 'forest offence'.

35. The question therefore arises as to whether the Respondents in the Forest Department could have exercised the power of seizure and confiscation on account of the breach of the Rules of 2022. Section 49 of the Regulation empowers any Forest Officer not below the rank of a Forester or any Police Officer not below the rank of a Sub-Inspector of Police, the power of seizure of property which is liable to confiscation subject to having reasons to believe that a forest offence had been committed. The power to confiscate is at Section 49(4) of the Regulation which is also

subject to the satisfaction that a forest offence had been committed.

Sub-Section (1) and (4) of Section 49 of the Regulation being relevant are reproduced herein under:

“49. Seizure of property liable to confiscation- (1) *When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all tools, boats, motorised boats, vessels, cattle, carts, rafts, machineries, vehicles, trucks, ropes, chains or any other implements, articles or materials used in the commission of such offence may be seized by any Forest Officer not below the rank of a Forester or any Police Officer not below the rank of a Sub-Inspector of Police.*

(2)

(3)

(4) *Subject to the provisions of sub-section (5) and (6), where the Authorised Officer upon production before him of the property seized or upon receipt of a report about seizure, as the case may be, and after such personal inspection or verification as he may deem fit and necessary, is satisfied that a forest offence has been committed in respect thereof, he may by order in writing and for reasons to be recorded therein, confiscate the forest produce so seized together with all tools, vehicles, cattle, trucks, motorised boats, boats, carts, machineries, rafts, vessels, ropes, chains or any other implements or articles used in committing such offence. A copy of the order of confiscation shall, without any undue delay, be*

forwarded to the Circle Conservator of Forests of the Circle in which the forest produce has been seized and the Magistrate having jurisdiction to try the offence on account of which the seizure has been made."

36. This Court also finds equally important to take note of Section 51 of the Regulation which stipulates when forest produce, tools etc. are liable to confiscation. Section 51 of the Regulation being relevant is reproduced herein below:-

"51. Forest produce, tools, etc., when liable to confiscation-(1) When any person is convicted of a forest-offence, all forest-produce which is not the property of the Government and in respect of which such offence has been committed, and all tools, boats, carts and cattle used in the commission of such offence, shall be liable, by order of the convincing Court, to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence."

From a perusal of the above Section, it would show when a person is convicted of a "forest offence, the forest produce, tools etc. can be confiscated.

37. In the above backdrop of the above analysis, it is importance to note that breach of the Rules of 2022 being not a forest offence, the question of seizure as well as confiscation of the furnitures on the ground of non-registration or non-compliance

to Rule 15 of the Rules of 2022 do not arise. Therefore, in the opinion of this Court, the action of the Respondents to seize the furnitures from the business premises of the Petitioners and initiate confiscation proceedings cannot be sustained in law. The seizure of the furnitures of the Petitioners by the Respondent Forest Officials are declared illegal and unauthorized. The consequential actions for initiation of the confiscation proceedings are also declared illegal and void.

38. It is also of relevance to note that the power to seal a business premises is a statutory power and in absence of such specific powers being conferred upon the authorities, the power exercised to seal the Petitioners' business premises is illegal and unauthorized. Moreover, without any forest offence being committed, the question of taking action for sealing the Petitioners' business premises is not only unauthorized but also without jurisdiction. The above decides the third point for determination.

FOURTH POINT FOR DETERMINATION

39. The fourth point for determination is as to what relief or reliefs the parties are entitled to.

This Court disposes of the present batch of writ petitions with the following observations and directions:-

- (A) The Petitioners' business premises would come within the ambit of the definition "Secondary Wood Based Industrial Unit".
- (B) The Petitioners in order to operate their business premises would have to register themselves under the Rules of 2022.
- (C) The sealing of the Petitioners business premises is illegal and unauthorized, and accordingly, directions issued to forthwith de-seal the business premises of the Petitioners in the batch of writ petitions.
- (D) The seizure of the furnitures from the Petitioners' business premises was illegal and unauthorized, and accordingly, the seizure so made is declared to be illegal and unauthorized. The Respondents in the Forest Department are directed to forthwith return the seized furnitures.
- (E) The initiation of the confiscation proceedings against the Petitioners are illegal and unauthorized, and accordingly, the confiscation proceedings initiated against the Petitioners are set aside and quashed.
- (F) The applications filed by the Petitioners seeking registration be processed in terms with Rule 8(A) of the Rules of 2022 within the timelines stipulated therein.

(G) No costs.

CONCLUSION

40. The writ petitions stands allowed to the extent indicated in the fourth point for determination.

JUDGE

Comparing Assistant