

**ASSAM FOODGRAINS (LICENSING AND CONTROL)
(THIRD AMENDMENT) ORDER, 1973**

Notification No SDB 274/71/ Part 30, dated the 6th December, 1973.

In exercise of the power conferred by sub Cls. (d), (f) (h) (i) and (j) of sub-S. (2) of S. 3 of the Essential Commodities Act, 1955 (Central Act 10 1955) read with the notification of the government of India, Ministry of Agriculture (Department of Food) No. GSR 315(E), dated 20th June 1972 and with the prior concurrence of the Government of India conveyed in their Telegram No. 9 (2) Assam/73 W. T. IV, dated 24th November, the Governor of Assam is pleased to make the following Order further to amend the Assam Foodgrains (Licensing and Control) Order, 1961, namely :

1. (1) The Order may be called the Assam foodgrains (Licensing and Control) Order, 1973:
- (2) It shall have the like extent as the Assam Food grains (Licensing and Control) Order , 1961, and
- (3) It shall come in to force on 1st December, 1973

For the words “ 2½ quintals” occurring in sub -Cl. (2) of Cl 16, the words “ 4 quintals of paddy or 2/1 quintals of rice” shall be substituted for the period of 3 months from 1st December, 1973 to 18th February , 1974.

NOTIFICATIONS

No. SDB 274/71/69, dated the 4th November, 1974. In exercise of the powers conferred b cl.17 of the Assam Foodgrains (Licensing and Control) Order, 1961, as amended for time to time, the Governor of Assam is Pleased to declare with immediate eff3dt the areas specified below as ‘ Notified area’:

The area with three kilometres belt all along the linter -State and the International Borders of Assam.

- (1) No person shall move or transport or cause to be moved or transported in to ‘Notified area’ from any place outside that are any foodgrains without a permit issued by the Director of supply or the Deputy Commissioner or any Officer authorised by the State Government in this behalf.
- (2) Within the above ‘Notified areas’ no person shall move or transport or cause to be moved or transported from

one place to another in the same notified area any foodgrains except up to 5 (five) Kg. For bona fide family consumption in a calendar day:

Provided that these restrictions shall not apply to movement under and accordance with military credit not, movement on Government account, or the movement on Government procurement agents accounts; and provided further that these restriction shall not apply for movement of paddy by producer to his home-stead.

This Order shall come in to force at once.

No. SDB 274/71/70.

In super session of all previous Notification in this respect the State Government in exercise of owners conferred by Cl.16 (1) of the Assam Foodgrains (Licensing and control) Order, 1961, as amended from time to time, are pleased to permit movement of foodgrains (i e., Rice Paddy and produce thereof) not exceeding 2.5 (two and a half) quintals in a calendar day by a person individually within any of the areas below subject to the modification and restriction imposed under (17 of the side order . No movement shall be allowed from one area to the other:

- (1) Dibrugarh District an Dhemaji Sub-division .

- (2) North Lakhimpur Sub- division.
- (3) Tezpur Sub –division
- (4) Mangaldoi Sub-division.
- (5) Part of Gauhati Sub-division at the north bank of the Brahmaputra, Nalbari Sub-division and Barpeta sub – division .
- (6) Kokrjhar sub division .
- (7) Dhubri Sub –division and the part of Goalpara Sub – division at the north bank of the Brahmaputra
- (8) Parts of Gauhati Sub –division and Goalpara sub – division at the south bank of Brahamaputra .
- (9) Nowgong District.
- (10) Mikir Hills District and North Cachar Hills District
- (11) Sibsagar District .
- (12) Cachar District

Movement of rice and paddy on the allotment orders for the Directorate of supply, Assam or the Government of rice and paddy by the Assam co –operative Apex marketing society

Ltd, and by the Food Corporation of India on their own account from one area to another, shall be made on the movement permits own issued by the local Deputy Commissioner or the Sub-divisional Officers.

No movement of rice / paddy shall be allowed between the period of sunset and sunrise.

No SDB 274/71/ Pt 92, dated the 30th October, 1975

In exercise of the powers conferred by Cl 17 of the Assam Foodgrains (Licensing and Control) Order, 1961, as amended from time to time, the Governor of Assam is pleased to declared it immediate effect the areas specified below as “Notified Areas”:

The areas within five kilometers belt all along the inter-state and in International borders of Assam.

- (1) No person shall move or transport or cause to be moved or transported in to a ‘Notified area’ from any place outside that area any foodgrains without permit issued by the Director of Supply or the Deputy Commissioner or any officer authorised by the State Government in this behalf.
- (2) Within the above ‘Notified areas’ no person shall move or transport or cause to be moved or transported from one place to another in the same notified area any

foodgrains except up to 5(five) kgs. for *bona fide* family consumption in calendar day:

Provided that these restriction shall not apply to movement under and accordance with a military credit not, movement on Government account or the movement of Government Procurement Agents' account: and provided further that these restriction shall not apply for movement of paddy by a producer to his home- stead.

This Order shall come in to force at once.

The Government Notification No. SDB 274/71/PT/58, date 13th January, 1975 stands resided.

No SDB 274/71 30, dated the 15th June, 1976.

In exercise of the orders conferred by Cl 17 of the Assam Foodgrains (Licensing and control) Order, 1961, as amended from time to time, the Governor of Assam is leased to declare the areas specified below as "Notified Areas" and to make the following orders , with immediate effect:

"The areas within the five kilometers belt all along the inter-state and the International Borders of Assam, the said five kilometers being reckoned from the side inter-state or International borders in to the State of Assam".

Orders:

- (1) No person shall move or transport or cause to be move to transport in to ‘Notified Areas” any foodgrains from any place outside the side Notified area, without a permit issued by the director of Supply , by the Deputy Commissioner of a Director or by any officer specifically authorised by the State Government in that behalf .
- (2) No person shall move or trans port or cause t be move or transported by foodgrains move than 5 (five) kgs. In wrights from one pace to another within the in “ Notified area”:

Provided that the side five kgs. Limit is permissible only for bona fide family consumption and of once in a day only.

- (3) The restriction shall not, however, apply to movement under and in accordance with a military credit not and movement on Government Account or to movements by Government Procurement Agents, to movement s of paddy by producer from the field to his more or to such movement of apply of rice as the State Government may allow by a general or special order.

This order shall come in to force at once.

This rescinds the government Notification No. SDB 274/71/
Pt /92, dated 30th October, 1975.

THE ASAM FOODSTUFFS

(PROHIBITION OF WITH HOLDING FROM SALE)

CONTROL ORDER, 1969

No SDB 434/69/2.

In exercise of the powers conferred by sub Cls. (e), (h), and (j) of Sub _S (2) of S. 3 of the Essential Commodities Act, 1955 (Central Act No. 10 of 1955) read with the Notification of the Government of India in the Ministry of food and Agriculture (Department of food), No GSR-1961, dated 24 -7-1967, and GSR 1508, dated 30-9-1967, the Governor of Assam hereby makes the following order, namely:

1. Short title, extent and commencement.

- (a) This order may be called the “ Assam Foodstuffs (Prohibition of withholding for sale) control order, 1969.
- (b) It shall extend to the whole of the stat of Assam
- (c) It shall come in to force at once.

2. Definitions.

In this Order, unless there is anything repaginating the subject or context-

- (a) “ Foodstuffs” means pulses, mustard oil, other edible oil, salt, rice sugar an any other class of commodities which the Government may, by notified order, declare to be “Foodstuffs” for the purposes of this Order.
- (b) “Deputy Commissioner” includes the Additional Deputy Commissioner and the Sub – Divisional office within their respective jurisdictions.
- (c) “Person” means a person dealing in foodstuffs.

3. Prohibition of withholding from sale.

For the maintenance of supplies and service of foodstuffs to the life of the community on person shall withhold from sale foodstuffs ordinarily kept for sale.

4. Power to call for information, search and seizure etc.

The Deputy Commissioner may –

- (a) issue direction to person to maintain and produce for inspection such books, accounts and records relating to his business of foodstuffs;

- (b) issue direction to any person to furnish information regarding purchase , sale and stock in hand of the foodstuffs;
- (c) enter , search , seize or authorise in writing any person to enter and search any premises , vehicle or place where there is person to believe that the stock on foodstuffs had been stored in contravention of this Order and to seize such stock , any books of accounts and documents which , in his opinion would be useful for , or relevant to, any proceeding under this Act.

5. Sanction for prosecution.

No prosecution in respect of an alleged contravention of the provision of this Order shall be instituted without the previous written sanction of the Deputy Commissioner.

COMMENTS

There is no dispute that any violation of the Control order has to be considered in this light of its deleterious effect on the community if such violations are condoned. It cannot also be disputed that fair price show provided employment and the last income derived by the petitioner there from constitutes at least a segment of his livelihood and hence its deprivation should be based on a commensurate enquiry.

It is well settled that where a power is required to be exercised by certain authority in a certain way, it should be exercised in that manner or not at all and all other modes of performance are necessarily forbidden, and that it is all the more necessary to observe this rule where power is of drastic nature and its exercise is made other than the one provided will be violative of the fundamental principles of natural justice as was ruled in *Hukum Chand Shyam Lak v Union of India* [AER 1976 SC789] , [*Suresh Deka V, State of Assam* , (1983) 1 GLR 377]

Unless the goods were delivered and stocked in the godown under the control and custody of the owner, it could not be said that the owner had any control over the goods and kept the goods withholding from sale which were meant for sale. Therefore it must be held that the consignment of the mustard oil till the date of seizure was not actually in the custody of the owner and /or consignee, but was in the custody of the Railway authority as the same was not delivered to the consignee of the relevant R/. R. It was observed in *Om Prakash Dugar v. State of Assam* [(1984) 1

GLR74], that mere ownership by an endorsement would not help the consignee to have control of the commodities unless the consignee physically presses the same . The physical possession of the consignment was it the railway authority as the consignment was not delivered on the date of seizure. The consignment was seized from the possession of the Railway authorities. There fore, it cannot b side that consignee with held fro sale, the commodities which were “ kept for sale’ as contemplated under Cl. 3 of the Order.

THE ASSAM FOODSTUFFS

(DISTRIBUTION)

CONTROL ORDER, 1958

Notification No SDB 304 / 58/10, dated 10 -10-1958.

In exercise of the powers conferred by 3 of the Essential Commodities Act, 1955 (10 of 1955) read with Government of the India, Ministry of Food and Agriculture, Order No. SRO 1477, dated the 29th April, 1957 notified at pages 988-989 of Part II, S.3 of the Gazette of India of the 11 the May, 1957 the Government, with the prior concurrence of the Central Government, in pleased to make the following Order namely:

1. (1) This order may be called the Assam Foodstuffs)
Control Order, 1958.
- (2) It shall apply to the whole of the state of Assam.
2. In this Order-
 - (a) “ appointed retailer “ men’s a retail dealer appointed or deemed to be appointed under the provision of paragraph in respect of any foodstuff.

- (b) “ Director means the Director of Supply, Government of Assam and includes Joint Director o supply and any other officer authorised by the State Government to perform all or any function of the Director.
- (c) “ Family Identity Care “ means a card or document issued to the head of a family under or pursuance of the previous of this order.
- (d) “ Government Scheme” means the scheme for distribution of foodstuffs to consumers through shop set up by the Government in this behalf.

3. (1) With a view to distribution foodstuffs under the Government scheme, the Director may, by order, appoint in respect of any area , a person as a retail dealer in respect of any foodstuff for the purpose of this Order and thereupon such retail dealer shall be entitled to supply in accordance with the provisions of this Order such foodstuff within such area:

Provided that retail dealers appointed as such under orders of appointment issued before the commencement of this Order and in force immediately before the commencement of this Order shall deemed to be appointed under the provision of this paragraph.

(2) The director may, after giving an appointed retailer and opportunity of stating his case for reasons to be recorded in writing, amend, vary suspend or proved his appointment wherever, in the opinion of the director, it is in the interest of the general public necessary or expedient so to do , and in every such case the appointed retailer shall be bound to surrender, on demand, to the Director the order of appointment for endorsement or cancellation , as the case may be .

COMMENTS

Where the appointment as “ appointed retailers” was cancelled or revoked for keeping the shop closed on Assam Bundh Day and no hearing was given, it was held in *Dwijendar Kumar Bhuyan v. The D.C., Kamrup* [(1983) 2 GLR

(NOC) 5] , that such and order was volatile of the principles of natural justice .

4. No appointed retailer shall supply or offer or attempt to apply or omit to be supplied by agent or sergeant of such appointed retailer any foodstuff in respect of which he holds his appointed retailer and accordance with the provision of this order.

5. (1). The Director, with a view to regularising supply of foodstuffs to such class of consumers as would, in he opinion of the Director, require regular supply under the Government scheme m, may issue or cause to be issued to every head o a family of such class in any area a family identity card for the purpose of this Order .

(2) The director may, after giving the holder of any such family identity care, an opportunity state his case and for reason to be recorded in writing, and to amend, vary or rescind the family identity card, whenever, in the opinion of the Director, it is in the interest of the general public necessary or expedient so to do, and in every such case, the holder of the family identity card shall be bound to surrender the family identity care on demand to the Director for endorsement or cancellation, as the case may be .

- 6.** (1) A family identity card shall not be available for lawful use except when it is used by or on behalf of the person in respect of whom it is issued.

(2) No person shall transfer to any other person any family identity card issued to him under the provision of this Order.
- 7.** Every family identity card under this order shall be the property of the State Government but the person to whom it is issued or surrendered or with whom it is retained under the provision of this order shall be entitled to its custody and shall be responsible for its safe custody.
- 8.** (1) If any family identity card be defaced, lost or stolen, an officer authorised by the Director in respect of any areas in this behalf may, after making such enquiry as he may think fit, issue a new family identity card in place thereof on payment of penalty of 50 paise per card.

(2) When a new family identity card is issued under subparagraph (1) in place of a lost family identity card it shall be the duty of the person to whom new family identity card has been issued, if he subsequently finds the lost family identity card, to return the lost family identity card forthwith to the officer by whom it was issued.

- 9.** When any person is in possession of a family identity card and such possession is not authorised by order this Order, shall forthwith deliver such family is identity card to the officer in charge of the local supply officer.
- 10.** The holder of a family identity card shall get the same registered with an appointed retailer in the manner prescribed by the Director for the purpose of obtaining supplies of foodstuffs for his family.
- 11.** An appointed retailer shall obtain his supply of foodstuffs on indent placed by him with the office-in-charge of the local supply office. The quantity of foodstuffs to be allotted to each appointed retailer against each indent shall b determinate by the sad officer in charge of the local supply officer.
- 12.** An appointed retailer shall deposit in such manner as may be prescribed in this behalf by the Director the price of any foodstuff allotted to him.
- 13.** Appointed retailer shall take delivery of foodstuffs for Government go down and /or miller godown particularly mentioned in a against delivery permits issued to him in this behalf.
- 14.** An appointed retailer r, immediately on receipt of the foodstuffs lifted by him fro the government go down and /or miller go down shall enter the same in appropriate stock register to be maintained by him in this behalf.

- 15.** Every appointed retailer shall sell foodstuffs to consumers in such quantities and at such rate or relates as may be specified in the orders made from time to time by the Government.
- 16.** On demand and offer of price by or on behalf of holders of family identity card an appointed retailer shall refuse to supply foodstuffs of appropriate quantities against such cards until the stock within him a in completely exhausted.
- 17.** When a family identity card has been issued to the head of a family under sub-paragraph (1) of Paragraph 5, no member of such family shall be entitled to a supply of foodstuffs under the Government scheme otherwise than on production of the family identity card to the appointed retailer with whom such card has been registered.
- 18.** Every appointed retailer shall issue each memos for sale nothing for sale nothing in each such memo, the name and address of the customer, together with such particular of family identity card as are specified by or under the order of the Director.
- 19.** Every appointed retailer shall also maintain a daily sale Register which shall be made up to date at the end of each day.

20. An appointed retailer shall sell foodstuffs during shop hours only as fixed by the deputy Commissioner or the Sub – Divisional officer, as the case may be.

21. Every appointed retailer shall comply with such direction as may be issued from time to time by the Director.

22. Every appointment retailer, when so required by an officer authorised by the Director in this behalf, shall.-

(1) surrender to such office all authorities and documents delivered to such appointed retailer under or for the purpose of this Order ; and

(2) furnish such particulars , accounts and information relation to his dealings in and stocks of any food stuffs as may be required .

22-A Every appointed retailer to whom any order or direction is issued under any powers conferred by or under his order shall comply with such order or direction.

COMMENTS

Rule 22-A has been inserted vide Notification No SDB 543/94/102, dated 6-8- 1966.

- 23.** (1) Any person authorised by the director in this behalf may-
- (a) enter any premises used or beloved to be used for the sale , distribution or storage for sale or distribution of any foodstuffs and inspect any such premises and any foodstuff therein or thereon ;
 - (b) require any person to make any statement or furnishing information or to produce any document or article in his possession or under his control relating to the purchase , sale distribution or stronger of any foodstuff and every person so required shall comply with such requisition;
 - (c) require any person to render any account or to produce books , account or other documents relating to , or beloved to be relating to , the ruches , sale , distribution or strange of any foodstuff and every person so required shall comply with such requisition;

- (d) take or cause to be taken extract for or copies of any document relating to the purchase, sale distribution or storage of any foodstuff which is produce under Cl. (B) or (c) or otherwise found in any such premises;
- (e) test or cause to be tested the correctness of any weight or measure used or veiled to be used in any transaction relating to the sale or distribution of any foodstuff.
- (f) Take or cause to be taken the weight of all or any of the food stuffs fund in any such premises

Provided that in entering upon and inspecting any premises the person so authorised shall have due regard to the social and religious customs the person occupying the premises.

- (3) The powers exercisable under this paragraph shall not be exercised except for the purpose of so ding in compliance with the provision of this Order.

24. The provision herein before contained in this Order, relating to the appointment of appointed retailer and the distribution of foodstuffs through them and other obligation imposed on them shall have effect not withstanding anything

inconsistent therewith contained in any prior agreement or instrument/ appointing the retailers for the same purpose.

NOTIFICATIONS

No. DS 197/58/9, date Shillong, the 4th November, 1985.

In exercise of the powers conferred by Paragraphs 22 and 23 of the Assam Foodstuffs (distribution) Control Order, 1958 I, B.L. Sen, I. A. S., Director of supply, Assam do hereby authorise the Deputy Commissioner, Sub Divisional Officer of the Supply Department not below the rank of Sub Inspector to exercise the powers referred to in paragraph 22 and 23 of the said Order.

No SDB 304/58/36, dated Shillong, the 4th November, 1958.

In exercises of the power conferred by paragraph 2 of the Assam Foodstuffs (Distribution) Control order, 1958, the Governor of Assam is pleased to authorised to deputy Commissioner and sub-divisional officers to per form within their respective jurisdiction the function of the director as referred to in paragraphs 3 (3) and (2), 5 (2) and (2) 10, 18 and 21 of the said Order.

No Ds. 197 /58/10, dated the 6th November, 1958.

In exercise of the powers conferred by paragraph 8 (1) of the Assam Foodstuffs (Distribution) Control Order, 1958, I B. L. Sen, I. A. S., Director of Supply, Assam, do hereby authorise the Deputy Commissioner as Sub – Divisional Officer to exercise the power referred to in paragraph 8 (1) of the said Order
