

GAHC010001592023



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

Case No. : WP(C)/76/2023

THE FAKIRAGRAM SAMABAI SAMITI LTD. AND 2 ORS
REPRESENTED BY DIPAK MAJUMDAR,
CHAIRMAN OF THE SOCIETY,
P.O- FAKIRAGRAM,
P.S.- FAKIRAGRAM,
DIST.- KOKRAJHAR, BTC, ASSAM.

2: DIPAK MAJUMDAR
SON OF LATE MADHU SUDHAN MAJUMDAR

VILLAGE- POCHAGAON

UNDER FAKIRAGRAM POLICE STATION

DIST- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

3: JALAL UDDIN AHMED
SON OF LATE SOBAHAN ALI SHEIKH

VILLAGE- PAKHRIRTOAL

UNDER FAKIRAGRAM POLICE STATION

DIST- KOKRAJHAR
BTAD
ASSAM

PIN- 783345

VERSUS

THE STATE OF ASSAM AND 18 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
CO-OPERATION DEPARTMENT,
GOVT. OF ASSAM, DISPUR,
GUWAHATI-6.

2:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
BTC

KOKRAJHAR
ASSAM.

3:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI- 22.

4:THE ADDITIONAL REGISTRAR
CO-OPERATIVE SOCIETIES
KOKRAJHAR DISTRICT
BTAD
ASSAM.

5:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
KOKRAJHAR DISTRICT
BTAD
ASSAM.

6:THE RETURNING OFFICER

DEPUTED FOR ELECTION IN THE YEAR 2018 FOR FAKIRAGRAM S.S. LTD.

KOKRAJHAR
BTAD
ASSAM.

7:THE SECRETARY
FAKIRAGRAM S.S. LTD.
KOKRAJHAR
BTAD
ASSAM.

8:CHINI RAM DAS
SON OF LATE LALMOHAN DAS

VILL- DHPERTAL

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

9:ALAUDDIN SHEIKH
SON OF MOFAJUL HUSSAIN

VILLAGE- KASHIMARI

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

10:ZAKIR HUSSAIN
SON OF LT. SABID ALI

VILL.- PAKHIRTAL

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

11:SANTA MANDAL
SON OF SURESH MANDAL

VILLAGE- RABHAPARA

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

12:RITU SEAL
SON OF GAUR SEAL

VILLAGE- PACHAGARH

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

13:CHANDRIKA PRASHAD NATH
SON OF LT. SHASHI MOHAN NATH

VILL- DINGAON

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

14:AJAY KR. NAG
SON OF KESHARI MOHAN NAG

VILL. AND P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

15:ABDUL ALIM
SON OF LT. ABDUL HAMID

VILL- KALJHAR

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

16:MATYAR RAHMAN
SON OF MEHER ALI

VILL- PAKHIRTAL

P.O.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

17:ATUL CHANDRA BARMAN
SON OF BHEDANG BARMAN

VILL- BHUBAN NAGAR

P.O.- PRATAP KHATA

P.S. - FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783337.

18:ANOWAR HUSSAIN
SON OF LT. JOYNULLAH SK

VILL- KOKAITARY

P.O.- FAKIRAGRAM

P.S.- FAKIRAGRAM

DIST.- KOKRAJHAR
BTAD
ASSAM

PIN- 783345.

19:RAHIMUDDIN SK.
SON OF HABEJUDDIN SK.

VILL- KHARIDAR SANDLA

P.O.- FAKIRAGRAM

P.S.- FAKIRAGRAM

DIST.- KOKRAJHAR

BTAD

ASSAM

PIN- 783345

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : SC, CO OP

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 09-01-2023

Heard Mr. M.U. Mahmud, learned counsel for the petitioners as well as Mr. S.K. Talukdar, learned standing counsel for the Cooperation Department for the respondent nos.1, 3, 4, 5 and 6 and Ms. R.B. Bora, learned standing counsel for the BTC.

2. By this writ petition under Article 226 of the Constitution of India, the case projected by the petitioners is that they were elected as Directors of Fakiragram Samabay Samiti Ltd. for the year 2018-2023 but they were not provided with the required 'elected' certificate by the respondent no.4 i.e. the Additional Registrar of Cooperative Societies, Kokrajhar allegedly due to the intervention made by the Registrar of Cooperative Societies, Assam (respondent no.3). Moreover, by the impugned order dated 17.04.2018 (Annexure-7), the Additional Registrar of Cooperative Societies, Kokrajhar had issued a direction

upon the Returning Officer to take necessary action and to complete the election process of the Society as per nomination papers declared valid by him on 12.04.2018.

3. The learned standing counsel for the Cooperation Department has submitted that the present petition is vitiated by delay and latches as the impugned order of 17.04.2018 has been assailed belatedly. It is submitted that the challenge of such nature ought not to be entertained because the petitioners are seeking their right as elected members for the next 5 years which is not permissible under the provision of Assam Cooperative Societies Act, 2007, as the tenure of the elected body would be from the year 2018-2023. Therefore, it is submitted that ordinarily the tenure of the petitioners, if declared elected would be valid till 31.03.2023.

4. Be that as it may, the petitioners claim that they are elected for the term 2018-2023. We have taken the note of the submission made by the learned standing counsel for the Cooperation Department that the tenure of the petitioners would have expired on 31.03.2023. Therefore, the Court is of the considered opinion that instead of keeping the matter pending, ends of justice would be served to direct the petitioners to submit a representation before the Registrar of Cooperative Societies (respondent no.3) for issuance of 'elected' certificate as Director of Fakiragram Samabay Samiti Ltd. for the term 2018-2023.

5. Accordingly, the writ petition is closed with liberty to the petitioner to submit a representation before the Registrar of Cooperative

Societies, Assam (respondent no.3) within a period of 10(ten) days from the date of receipt of certified copy of the order and upon receipt of such representation the respondent no.3 shall consider the claim of the petitioners of being elected Directors of Fakiragram Samabay Samiti for period of 2018 to 31.03.2023 and take an appropriate decision thereon.

6. It is further provided that if the petitioners are found entitled to be declared as elected Board members of the said Society, it would be open to the respondent no.3 to allow the petitioners to take charge as Directors of Fakiragram Samabay Samity Ltd. till the end of their normal tenure ending on 31.03.2023, and not beyond.

7. As this writ petition has been disposed of at the motion stage without issuance of notice on the respondents, liberty is given to anyone aggrieved to apply before this Court for modification of this order.

8. With the above observations, the writ petition stands disposed of.

JUDGE

Comparing Assistant