

GAHC010023452023



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

Case No. : WP(C)/640/2023

NOOR AHMED MAZUMDER AND 11 ORS
S/O- LT. ABDUL KARIM MAZUMDER,
R/O- VILL. AND P.O.- CHANDIPUR PART-I,
PS- ALGAPUR, DIST- HAILAKANDI,
ASSAM.

2: MUKTA HUSSIAN MAZUMDER
S/O- LT. MAYMUN RAJA MAZUMDER
R/O- VILL. AND P.O.- CHIPORSANGON PART-III
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM.

3: IKBAL HUSSAIN CHOUDHURY
S/O- LT. JALIL CHOUDHURY
R/O- VILL. AND P.O.- CHANDIPUR PART-I
PS- ALGAPUR
DIST- HAILAKANDI
ASSAM.

4: AMINA BEGOM BARBHUIYA
W/O- LATE MOTIUR RAHMAN BARBHUIYA
R/O- VILL. AND P.O.- CHANDIPUR PART-I
PS- ALGAPUR
DIST- HAILAKANDI
ASSAM.

5: SHAMSUL HOQUE CHOUDHURY
S/O- LATE AZIZUR RAHMAN CHOUDHURY
R/O- VILL. AND P.O.- CHANDIPUR PART-I
PS- ALGAPUR
DIST- HAILAKANDI
ASSAM.

6: ABDUL KUDDUS BARBHUIYA

S/O- LT. KUTUB UDDIN BARBHUIYA
R/O- VILL. - CHIPORSANGON PART-III
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM.

7: TAYBUR RAHMAN BARBHUIYA
S/O LT. ABDUR REZAK BARBHUIYA
R/O- VILL. - CHIPORSANGON PART-III
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM.

8: AFTAR HUSSAIN CHOUDHURY
S/O- LATE TOMID ALI CHOUDHURY
R/O- BOWARTHAL
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM.

9: JOYRUL HUSSAIN MAZUMDER
S/O LATE KUTUB ALI MAZUMDER
R/O- VILL. - CHIPORSANGON PART-III
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM.

10: GUPON NATH
S/O- LATE NANDA LAL NATH
R/O- VILL. SAYEDBOND PART-I
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM.

11: FAZLUL JALAL BARBHUIYA
S/O- LATE ABDUL MANNAN BARBHUIYA
R/O- VILL. - CHIPORSANGON PART-III
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM.

12: RANUARA BEGOM LASKAR
W/O LATE ABDUL HAQUE LASKAR
R/O- VILL.- KAPNARPAR
P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
TO BE REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM,
DEPTT. OF CO-OPERATION,
DISPUR, GUWAHATI- 6.

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

3:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
HAILAKANDI
P.O.
P.S. AND DIST.- HAILAKANDI
ASSAM.

4:THE OFFICER ON MANAGEMENT
ALGAPUR SS LTD
P.O. AND P.S.- ALGAPUR
DIST.- HAILAKANDI
ASSAM
PIN- 788150.

5:THE SECRETARY
ALGAPUR SS LTD
P.O. AND P.S. ALGAPUR
DIST.- HAILAKANDI
ASSAM
PIN- 788150

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : SC, CO OP

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 13-02-2023

Heard Mr. M.H. Laskar, learned counsel for the petitioners and Mr. S.K. Talukdar, learned Standing Counsel, Co-operation Department, Assam for respondent nos. 1, 2, 3 and 4.

2. The petitioners, 12 in nos., have approached this Court by the instant writ petition, preferred under Article 226 of the Constitution of India, ventilating their grievances with regard to the Annual General Meeting/Election contemplated for M/s Algapur Samabay Samiti Limited [‘the Society’, for short], a society registered under the Assam Co-operative Societies Act, 2007.

3. The petitioner nos. 1-7 have claimed themselves to be members/share-holders [weak-category] of the Society. The petitioner nos. 8-12 have claimed themselves to be nominees/legal heirs of share-holders of the Society, who had already expired. The petitioner nos. 1-7 have asserted that they have the right to vote whereas the petitioner nos. 8-12 have asserted that their names have not been included in the voters list of the Society, already prepared, as nominees of the deceased share-holders.

4. The Society is presently administered by an Officer-on-Management, appointed under Section 41[6] of the Assam Co-operative Societies Act, 2007. The Officer-on-Management has been entrusted with the duty to conduct the Annual General Meeting/Election of the Society and accordingly, the said authority has decided to hold the Annual General Meeting/Election on 26.02.2023 and for that purpose, the said authority has already published a Voters List : 2022-2023.

5. The petitioners have contended that the Voters List : 2022-2023 has been prepared without following the provisions of the Assam Co-operative Societies Act, 2007, more particularly, Section 26 thereof. According to them, the voters list has been published without consideration of the objections/representations submitted by the aggrieved persons including the petitioners. As the petitioners came to know about the publication of Voters List : 2022-2023 only on 19.01.2023, the petitioners had immediately brought to the notice of the Officer-on-Management [respondent no. 4] that in the Voters List : 2022-2023, names of a number of dead persons had been included. To buttress the same, Mr. Laskar, learned counsel for the petitioners has referred to the Death Certificates issued by the Registrar [Birth & Death] at Page nos. 38 to 47 of the case papers. The petitioners have, thus, contended that

at least 12 [twelve] dead persons' names got included in the Voters List : 2022-2023 making the Voters List fraught with anomalies, which require extensive correction. The petitioners have further alleged that the names of some ineligible persons have also been included in the Voters List : 2022-23.

6. Mr. Talukdar, learned Standing Counsel for the Co-operation Department has submitted that ventilating such grievances the petitioners may approach the Registrar of Co-operative Societies, Assam by way of a representation and in the event such a representation is filed along with the requisite supporting documents as regards the allegations, made herein, the Registrar of Co-operative Societies, Assam may look into the same and decide on the representation. He has further submitted that as the Annual General Meeting/Election is scheduled on 26.02.2023, the petitioners must file such representation within 3 [three] days from today so that the Registrar can consider and dispose of the same much ahead of 26.02.2023.

7. Mr. Laskar, learned counsel for the petitioners has agreed to the above submissions of Mr. Talukdar.

8. The Court is conscious of the fact that the process to be undertaken for Annual General Meeting/Election is time consuming and tedious and the process was set into motion much earlier with the preparation and publication of the Voters List of the Society. Whether the Voters List has contained the names of dead persons or ineligible voters, would require determination of facts. The petitioners have made allegations about inclusion of dead persons and/or ineligible persons in the Voters List : 2022-23 with the further allegation that the petitioners' name ought to have been included as nominees/successors-in-interest in respect of their predecessors-in-interest, who were share-holders of the Society.

9. Having regard to the submissions made by the petitioners herein and the broad consensus arrived at by them, this court is of the considered view that instead of keeping the writ petition pending, the same can be disposed of by granting opportunity to the petitioners to submit a representation before the Registrar of Co-operative Societies, Assam along with

all supporting documents in support of their claims regarding inclusion of dead persons or ineligible persons in the Voters List : 2022-23 and/or non-inclusion of the names of the successors-in-interest in place of the deceased share-holders of the Society by 16.02.2023. In the event such a representation is submitted by the petitioners within 16.02.2023, the Registrar of Co-operative Societies, Assam shall take such representation on board and consider the same on the basis of the materials brought before him and thereafter, dispose of the same by passing a speaking order. The holding of the Annual General Meeting/Election of the Society scheduled, will abide by the decision to be so passed by the Registrar of Co-operative Societies, Assam. It is observed that this Court has not observed anything on the merits of the claims made by the petitioners and the Registrar of Co-operative Societies, Assam is to consider the representation of the petitioners, if any, on its own merits and in accordance with the provisions of law in force.

10. This order disposes of this writ petition.

JUDGE

Comparing Assistant