

GAHC010031452023



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

Case No. : WA/111/2023

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. E
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
BTADM, 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

For the Appellants : Mr.M.U. Mahmud, Advocate.

For respondents : Mr. G. Bordoloi, Standing Counsel, Co-operation
Department.
Mr. S.R. Rabha, Standing Counsel, BTC.

– BEFORE –

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

11.04.2023

The instant writ appeal has been preferred by the appellants for assailing the order dated 09.01.2023 passed by the learned Single Bench in WP(C) No.76/2023] dismissing the writ petition preferred by the writ petitioners with the prayer to direct the respondent Department to continue them as Directors of the Fakiragram Samabai

Samiti Limited for a period of 5(five) years from 2023 onwards on the basis of their election held in the year 2018.

2. Learned counsel Mr. M.U. Mahmud representing the appellants/ petitioners vehemently and fervently urged that though appellants/petitioners were elected as Directors of the Fakiragram Samabai Samiti Ltd. in the year 2018 but on account of interim order dated 03.05.2018 passed by this Court in WP(C) No.2429/2018, they could not perform their functions as the Directors.

3. Thus, as per Mr. Mahmud, the appellants/petitioners deserve to be continued as Directors of the Fakiragram Samabai Samiti Ltd. so as to enable them to complete the tenure of 5 years for which they were elected.

4. We have considered the submissions of Mr. Mahmud, learned counsel for the appellants and also have gone through the impugned order and the materials placed on record.

5. It is not in dispute that the appellants herein were elected as Directors in March 2018 and their tenure has come to an end in March, 2023 on completion of 5 years.

No person who secures a position in a democratic process by virtue of an election can claim to continue on a post beyond the prescribed tenure unless the statute permits such extension.

6. The appellants' grievance is that they were not allowed to function as Directors in the Society because the erstwhile members of the Society continued to hold on to the posts by virtue of an interim order passed in earlier round of litigation.

7. The simple answer to this submission of the appellants' counsel is that the appellants could have challenged the said interim order by approaching the appropriate forum.

8. Be that as it may, since five years tenure of the appellants pursuant to their election held in 2018 as Directors of the Society has come to an end, they cannot seek

any direction to continue any further.

9. The impugned order dated 09.01.2023 passed by the learned Single Bench in WP(C) No.76/2023 whereby, the appellants/petitioners were denied such relief does not suffer from any infirmity whatsoever.

10. Hence, the writ appeal fails and is dismissed as being devoid of merit. No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant