

GAHC010032012023



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

**Case No. : WP(C)/848/2023**

NASIR UDDIN MAZARBHUYAN AND 8 ORS.  
S/O. LT. KUTIMIYA MAZARBHUYIA, VILL. GOSSAIPUR, P.S. UDHARBOND,  
DIST. CACHAR, ASSAM.

2: ABID RAJA LASKAR  
S/O. LT. BINOD RAJA LASKAR  
VILL. GOSSAIPUR  
PART-III  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM.

3: SAJUL ISLAM BARBHUYIA  
S/O. ANOR ALI  
VILL. GOSSAIPUR  
PART-III  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM.

4: ABDUL KUDDUS LASKAR  
S/O. LT. NIJAM UDDIN LASKAR  
VILL. GOSSAIPUR  
PART-III  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM.

5: AKHTAR UDDIN LASKAR  
S/O. LT. AYUB ALI LASKAR  
VILL. GOSSAIPUR  
PART-III  
P.S. UDHARBOND  
DIST. CACHAR

ASSAM.

6: SHAYAJ UDDIN LASKAR  
S/O. LT. ABDUL GOFUR LASKAR  
VILL. GOSSAIPUR  
PART-III  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM.

7: ABU BAKKAR BARBHUYIA  
S/O. LT. RAJA MIYA BARBHUIYAN  
VILL. GOSSAIPUR  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM.

8: AZIZ KHAN  
S/O. AKBAR KHAN  
VILL. CHAPPANHAL  
P.S. ARKATIPUR  
DIST. CACHAR  
ASSAM.

9: NAZIM UDDIN CHOUDHURY @ NAZIM UDDIN CHOUDHY  
S/O. KAMAL UDDIN CHOUDHURY  
VILL. GOSSAIPUR  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
TO BE REP. BY THE COMMISSIONER AND SECY., TO THE GOVT. OF  
ASSAM, CO-OPERATIVE DEPT., 781006, ASSAM.

2:THE REGISTRAR CO-OPERATIVE SOCIETIES

ASSAM  
KHANAPARA  
GUWAHATI-22  
ASSAM.

3:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES

CACHAR AT SILCHAR  
DIST. CACHAR

ASSAM.

4:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES

CACHAR AT SILCHAR  
DIST. CACHAR  
ASSAM.

5:NOOR AHMED LASKAR  
OFFICER ON MANAGEMENT RANGPUR COOPERATIVE SOCIETIES LTD.

6:THE RONGPUR CO-OPERATIVE SOCIETY

P.O. GOSSAIPUR  
P.S. UDHARBOND  
DIST. CACHAR  
ASSAM REP. BY ITS SECRETARY G.M. TUJFIKAR AHMED LASKAR

**Advocate for the Petitioner** : MR H R A CHOUDHURY

**Advocate for the Respondent** : SC, CO OP

**BEFORE**  
**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**15.02.2023**

Heard Shri H.R.A. Choudhury, learned Senior Counsel for the petitioners assisted by Shri M.A. Choudhury, learned counsel. Also heard Shri S.K. Talukdar, learned Standing Counsel, Co-operation Department along with Shri G. Bordoloi, learned counsel.

Considering the peculiar nature of the case and as agreed to by the parties, this writ petition is taken up for disposal at the motion stage itself.

The petitioners who are nine in numbers were members of Board of Directors of Rongpur Cooperative Society in the district of Cachar.

It is the case of the petitioners that they were elected on 18.11.2018 for a period

of 5 years i.e., upto 18.11.2023. A notice dated 04.03.2022 was published as per which the AGM was to be held on 19.03.2022. Being faced with such notice, the petitioners had filed application before the Assistant Registrar of the Cooperative Society and prayed for holding the meeting on 20.03.2022. However, it is the allegation of the petitioners that the meeting was held on 19.03.2022 itself against which a complaint has been made which is pending enquiry. In the meantime, the Board was dissolved vide a communication dated 30.05.2022 by invoking the provisions of Section 39 of the Assam Cooperative Societies Act, 2007.

The petitioners claimed to have filed an appeal on 10.06.2022 and had also approached for allowing them to manage the affairs of the Society. However, instead of allowing them to do so, a notice has been issued on 01.02.2023 for holding the AGM and the election on 21.02.2023 for electing 15 members of the Board for the ensuing term w.e.f. 2022-2023. The petitioners are challenging the aforesaid action including the notice dated 01.02.2023.

Shri Choudhury, the learned Senior Counsel for the petitioners have submitted that their grievances not yet being redressed, even if, the impugned action is not interfered with at this stage, a direction be issued to the primary authorities to take on board the grievances of the petitioners and pass appropriate speaking order on the same. Alternatively, the learned Senior Counsel submits that the election may be stayed and / or postponed.

Reacting to the aforesaid submissions, Shri Talukdar, the learned Standing Counsel has submitted that any dispute regarding an election can be raised only by means of an election dispute in a duly constituted tribunal.

He, therefore, submits that the question of staying the process of election would not arise, more so, when the preparation has already been made and ballot papers have already been prepared.

After hearing the parties and on perusal of the materials on records, this Court is

of the opinion that the writ petition can be disposed of by directing the Registrar of Cooperative Societies, Assam to consider the appeal dated 10.06.2022, followed by the reminder dated 14.09.2022, expeditiously and preferably before the date fixed for the elections, i.e., 21.02.2023.

Depending on the outcome of such consideration, the petitioners may take the recourse of the appropriate provision of law for redressal of their grievance, including filing of appropriate election petition, if so advised.

This Court also considers that even in the Constitution of India, there is a bar under Article 329 (b) to pass any interim order in the elections of the State and therefore, a similar principle is required to be followed even for elections pertaining to Co-operative Societies which involve an elaborate process which is not liable to be disturbed.

Writ petition accordingly stands disposed of.

**JUDGE**

**Comparing Assistant**