

GAHC010043192023



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

**Case No. : WP(C)/1224/2023**

NURUL HOQUE BARBHUIYA @ BONG AND ANR  
SON OF LATE MAHMUD ALI BARBHUIYA,  
R/O- VILL. DINANATHPUR PART-I,  
P.O.- DINANATHPUR, DIST.- HAILAKANDI,  
ASSAM.

2: BILAL UDDIN  
SON OF LATE KHALIL UDDIN

R/O- VILL. DINANATHPUR PART-I

P.O.- DINANATHPUR  
DIST.- HAILAKANDI

ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM,  
COOPERATION DEPARTMENT,  
DISPUR, GUWAHATI-06.

2:THE REGISTRAR OF COOPERATIVE SOCIETIES  
ASSAM  
KHANAPARA  
GUWAHATI- 781022.

3:THE ZONAL JOINT REGISTRAR OF COOPERATIVE SOCIETIES  
SILCHAR ZONE  
SILCHAR  
CACHAR  
PIN- 788001.

4:THE ASSTT. REGISTRAR OF COOPERATIVE SOCIETIES  
HAILAKANDI  
ASSAM  
P.O.- HAILAKANDI  
PIN- 788162.

5:RONGPUR SAMABAI SAMITY LTD.  
REPRESENTED BY ITS SECRETARY

P.O.- SAHABAD  
DIST.- HAILAKANDI

ASSAM  
PIN- 788163.

6:SIRAJUL HOQUE LASKAR  
MEMBER OF THE BOARD OF DIRECTORS OF RONGPUR SAMABAY  
SAMITY LTD.  
RONGPUR

P.O.- SAHABAD  
DIST.- HAILAKANDI

ASSAM  
PIN- 788163.

7:DILU DAS  
MEMBER OF THE BOARD OF DIRECTORS OF RONGPUR SAMABAY  
SAMITY LTD.  
RONGPUR

P.O.- SAHABAD  
DIST.- HAILAKANDI

ASSAM  
PIN- 788163.

8:ALTAF HUSSAIN LASKAR  
MEMBER OF THE BOARD OF DIRECTORS OF RONGPUR SAMABAY  
SAMITY LTD.  
RONGPUR

P.O.- SAHABAD  
DIST.- HAILAKANDI

ASSAM  
PIN- 788163.

9:AJIJUR RAHMAN CHOUDHURY  
MEMBER OF THE BOARD OF DIRECTORS OF RONGPUR SAMABAY  
SAMITY LTD.  
RONGPUR

P.O.- SAHABAD  
DIST.- HAILAKANDI

ASSAM  
PIN- 788163

**Advocate for the Petitioner** : MR. K R PATGIRI

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

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

**ORDER**

**27.03.2023**

Heard Shri UK Nair, learned Senior Counsel assisted by Shri KR Patgiri, learned counsel for the petitioners.

**2.** Considering the nature of the grievance and as agreed to by the parties, the instant petition is taken up for disposal at the motion stage. It is, however, made clear that the disposal is on a technical issue without entering into the *inter-se* merits of the dispute.

**3.** The petitioners, who are two in numbers, are shareholders of the Rongpur Samabay Samity Ltd., Hailakandi. The last election was held sometime in the year 2007 whereafter due to certain situations, election could not be held for which there were litigations in this Court.

**4.** Ultimately, an election was notified culminating holding of elections on 05.02.

2023. The petitioners submit that the results were declared on 07.02.2023 and in accordance with the Assam Cooperative Societies' Election Rules, 2019 (Election Rules), an election petition had been filed. However, that was not taken into consideration.

**5.** On the other hand, Shri Talukdar, learned Standing Counsel, Cooperation Department submits that there are two inherent defects in the so called petition. He submits that firstly, the same has been addressed to the Assistant Registrar of Cooperative Societies, Hailakandi whereas, as per the Election Rules, more specifically Rule 27 thereof, the petition has to be submitted to the election authority which has been defined in Rule 2 (f). By referring to the aforesaid Rule 2 (f), the learned Standing Counsel submits that election authority means the Registrar of Cooperative Societies, Assam or any other officer to whom the powers of election are delegated. He further clarifies that though as per Rule 3, the powers can be delegated to the Assistant Registrar of Cooperative Societies that is only for the purpose of conducting the elections and not for adjudication of dispute for which a special delegation was necessary which has not been done.

**6.** Be that as it may, the second objection raised by Shri Talukdar, learned Standing Counsel with regard to the period of limitation. He submits that apparently the petition has been filed on 09.02.2023 whereas the election was held on 05.02.2023. Both the aforesaid two objections have, however, been responded to by Shri Nair, learned Senior Counsel by contending that the fact of submitting the petition before the Assistant Registrar of Cooperative Societies, Hailakandi can be rectified by permitting the petitioners to submit such a representation raising the dispute before the Registrar of Cooperative Societies as per law. So far as the objection regarding limitation is concerned, the learned Senior Counsel for the petitioners clarifies that the prescribed period of 3 days has to be done from the date of declaration of the result which, in

this case, was 07.02.2023.

**7.** Both responses have been fairly conceded by Shri Talukdar, learned Standing Counsel.

**8.** Under the facts and circumstances, this Court directs that the petition dated 09.02.2023 submitted before the Assistant Registrar of Cooperative Societies, Hailakandi may be resubmitted to the appropriate authority which is the Assistant Registrar of Cooperative Societies, Assam within a period of 1 week from today which would be deemed to be in time as the initial petition, though addressed to the wrong authority, was within time. On such submission, the Registrar of Cooperative Societies, Assam shall consider the same and after giving proper opportunity to the affected parties pass a speaking order. In the hearing, the affected parties would also be entitled to raise all the legal issues which would be considered in accordance with law.

**9.** The entire exercise, as indicated above, may be completed expeditiously within an outer limit of 3 months from the date of receipt of the same.

**10.** The writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**