

GAHC010096062023



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

Case No. : WP(C)/2439/2023

MD AKLAS UDDIN
S/O ARMAN ALI
VILL- DARGARBOND, VTC, DALOO PART-II
P.O. MUKTARANPUR
DIST. KARIMGANJ, ASSAM
PIN-788150

VERSUS

THE STATE OF ASSAM AND 13 ORS
REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM,
CO-OPERATION DEPARTMENT,
DISPUR, GUWAHATI-781006.

2:THE REGISTRAR

CO-OPERATIVE SOCIETIES
ASSAM

KHANAPARA
GUWAHATI-781022

3:THE ASSISTANT REGISTRAR

CO-OPERATIVE SOCIETIES
RAMKRISHNA NAGAR

KARIMGANJ
ASSAM
PIN-788166

4:THE RETURNING OFFICER

GANDHIGRAM CO-OPERATIVE SOCIETY LTD. P.O. NETAJI NAGAR

DIST. KARIMGANJ
ASSAM
PIN-788166

5:THE PRESIDENT

GANDHIGRAM CO-OPERATIVE SOCIETY
P.O. NETAJI NAGAR

DIST. KARIMGANJ
ASSAM
PIN-788166

6:THE SECRETARY

GANDHIRAM CO-OPERATIVE SOCIETY
P.O. NETAJI NAGAR

DIST. KARIMGANJ
ASSAM
PIN-788166

7:SMT. SUKLA SINHA
W/O SRI KISHOR KUMAR SINHA
VILL- GORARBOND
P.O. NETAJI NAGAR

DIST. KARIMGNAJ
ASSAM
PIN-788166

8:SRI SOURAV BAISHNAB
S/O LATE HARLAL BAISHNAB
VILL- BISHNUPUR
P.O. NETAJI NAGAR

DIST. KARIMGANJ
ASSAM
PIN-788166

9:SRI SWAPNAJIT PAUL
S/O SRI SUDHINDRA PAUL
VILL AND P.O. NETAJI NAGAR

DIST. KARIMGNAJ

ASSAM
PIN-788166

10:SRI BINAYAK CHAKRABORTY
S/O SRI LAXMI MANGAL CHAKRABORTY
VILL- GANDHINAGAR

P.O. NETAJI NAGAR

DIST. KARIMGNAJ
ASSAM
PIN-788166

11:SRI JAYANTA DAS
S/O LATE JYOTISH CH. DAS
VILL- KALIBARI BAZAR
P.O. NETAJI NAGAR

DIST. KARIMGNAJ
ASSAM
PIN-788166

12:SRI ASHIM KUMAR ROY
S/O SRI ANANDA RAM ROY
VILL- MANIKNAGAR
P.O. NETAJI NAGAR

DIST. KARIMGNAJ
ASSAM
PIN-788166

13:SRI SAURAB DAS
S/O LATE SAMIRAN DAS
KALINAGAR GRAM PANCHAYAT
RAMKRISHNA NAGAR CO-OPERATIVE SOCIETY

DIST. KARIMGANJ
ASSAM
PIN-788166

14:SRI RAJESH DAS
S/OLATE RAJENDRA DAS
GAMARIA GRAM PANCHAYAT
VILL- NABIN GRAM
DIST. KARIMGANJ
ASSAM
PIN-78816

Advocate for the Petitioner : MR. P K BARMAN

Advocate for the Respondent : SC, CO OP

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

08.05.2023

Heard Mr. P.K. Barman, learned counsel for the petitioner, who submits that the petitioner is a member of the Gandhigram Samabhai Samittee Ltd. The respondent Nos. 5 & 6 published notice dated 25.04.2023 informing the members of the Samittee Ltd. about the holding of election on 10.05.2023 to the 15 members Board of Directors of the said Samittee for a period of 5 years w.e.f. 2023 – 2028. After going through the voter list dated 10.05.2023, the petitioner found that the names of the respondent Nos. 7 and 12 had been illegally entered into the Part-I voter list of 2022-2023, while the actual members were still alive. Further, the respondent Nos. 13 & 14, who were outsiders, were illegally inserted in Part-II voter list of 2022-2023, by replacing the actual voters pertaining to Part-II voter list of 2021 – 2022. He accordingly submits that the notice dated 25.04.2023 issued by the respondent Nos. 5 & 6 should be set aside. Further, there should be a correction to the Part-I and Part-II voter list of 2022 – 2023 by deleting the names of the respondent Nos. 7 to 14.

2. Mr. S.K. Talukdar, ,learned counsel for the respondent Nos. 1, 2, 3 & 4 submits that any dispute relating to the election in a Cooperative Society should be submitted within three days from the date of declaration of the results, before the election

authority in terms of Rule 27 of the Assam Cooperative Societies Election Rules, 2019 (herein after referred to as "2019 Rules"). He submits that upon submission of any election petition, the election authority shall make an enquiry upon the dispute and pass necessary orders. He submits that unless the election is allowed to continue, various petitions would come up time and again in different matters thereby stalling the process of election. As there is a mechanism to resolve the issue raised by the petitioner, the issue raised by the petitioner can be decided by the authority after the election is conducted and prior to any approval being given by the Registrar and his Officers to the election/AGM to be held on 10.05.2023.

3. On considering the submissions made by the counsels, this Court is of the view that the issue raised by the petitioner pertains to disputed questions of fact. The grievance of the petitioner with regard to the voters in the Part-I and Part-II voter list of 2022 – 2023 is made in para No. 5 of the writ petition, which is as follows:-

“PART-I

Sl.No.	Part-I Voter list of 2021 - 2022	Sl.No	Part I Voter list of 2022-23 Illegal inclusion of names
792	Sri. Kishor Kumar Sinha S/o Late Kamar Sinha	792	Smti. Sukla Sinha, W/o Sri. Kishor Kumar Sinha
1054	Sri. Arabinda Baishnab S/o Late Harlal Baishnab	1054	Sri. Sourab Baishnab S/o Late Harlal Baishnab
1473	Smti. Chaya Rani Paul, W/o Late Sudhindra Paul	1437	Sri. Suprajit Paul, S/o Late Sudhindra Paul
1626	Sri. Laxmi Mangal Chakraborty,	1626	Sri. Binayak Chakraborty S/o Laxmi Mangal

	S/o Late Bidyut Chakraborty		Chakraborty,
1778	Sri. Agur Basi Das, S/o Krishna Das	1778	Sri. Jayanta Das, S/o Late Jyotish Ch Das
2546	Sri. Ananda Ram Roy, S/o Gorai Namasudra	2546	Sri. Ashim Kumar Roy S/o Sri. Ananda Ram Roy

Part - II

Sl.No	Part-II Voter list of 2021 - 2022	Sl.No	Part – II Voter list of 2022 – 2023 Illegal inclusion of outsiders names
49	Sri. Nishit Das, S/o Niranjana Das	49	Sri. Sourab Das, S/o Late Samiran Das
109	Sri. Sajal Das S/o Kunja Mohan Das	109	Sri. Rajesh Das, S/o Late Rajendra Das

4. On considering the fact that the election is to be held in two days time, this Court is not inclined to stay the election to be held under the aegis of the election authority, i.e., the Registrar or his representatives. Accordingly, the election to the Board of Director of the Gandhigram Samabhai Samittee Ltd. is allowed to be held on 10.05.2023. However, the Registrar, i.e., the respondent No. 2 and respondent No. 3 shall not give any approval to the election/AGM to be held on 10.05.2023, prior to deciding the grievance of the petitioner in terms of Rule 27 of the 2019 Rules. The petitioner will accordingly submit a representation along with this writ petition with regard to his grievance, before the respondent No. 2 between 11.05.2023 and 13.05.2023.

5. Thereafter, till a decision is taken by the respondent No. 2 with regard to the grievance of the petitioner in his representation, the AGM/elected body will not be given the seal of approval by the respondent Nos. 2 & 3. The Departmental Officers will run the society till a decision is taken by the competent authority.
6. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant