

GAHC010096922022



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

Case No. : WP(C)/3391/2022

SWAPAN NAMASUDRA
S/O. LT. SUNIL NAMASUDRA, VILL. TELIKHALER, P.O. TELIKHALER
ROAD, DIST. KARIMGANJ, ASSAM, PIN-788711.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, COOPERATION
DEPTT., DISPUR, GUWAHATI-06.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES

ASSAM
KHANAPARA
GUWAHATI-781022.

3:THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G)

ASSAM
KHANAPARA
GUWAAHTI-22.

4:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES

SILCHAR ZONE
KARIMGANJ
ASSAM.

5:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES

KARIMGANJ
ASSAM.

6:THE CHAIRMAN

KANISHAIL- JABAINPUR COOPERATIVE SOCIETIES LTD. KARIMGANJ
ASSAM
PIN-

7:SRI ALA UDDIN
S/O. LT. MANIK MIA
VILL. AND P.O. SILCHAR ROAD
DIST. KARIMGANJ
ASSAM
PIN

8:SRI BARINDRA KUMAR BAISNAB
I/C SECRETARY
KANISHAIL- JABAINPUR COOPERATIVE SOCIETIES LTD.
KARIMGANJ
ASSAM
PIN

Advocate for the Petitioner : MR. J M A CHOUDHURY

Advocate for the Respondent : SC, CO OP

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

07.08.2023

Heard Mr. J. M. A. Choudhury, learned counsel appearing for the writ petitioner.
Also heard Mr. S. K. Talukdar, learned Standing Counsel, Cooperation, Assam
appearing on behalf of the respondent Nos.1 to 5. Mr. M. H. Laskar, learned
counsel is present on behalf of respondent Nos.6 and 8. None has appeared for
the respondent No.7.

The term in office of the executive of Kanishail-Jabainpur Cooperative Society
Limited, Karimganj had expired on 28.03.2022 after the extension period had
lapsed. However, fresh election/AGM of the Cooperative Society could not be

held due to ongoing dispute between the two Secretaries of the Cooperative Society, viz., the writ petitioner herein and the respondent No.8. It is to be noted herein that both the writ petitioner as well as the respondent No.8 were initially appointed as In-Charge Secretaries but there was some controversy as regards the procedure adopted for their removal from office and/or restoration in office.

It appears from the submission of Mr. Talukdar, learned departmental counsel that after the expiry of the term of the Board of Directors of the Cooperative Society, a one-man Committee was appointed to manage the affairs of the Society until such time election/AGM is held and the said one-man Committee is functional till today.

After hearing the submissions of both the contesting parties, this Court is of the opinion that the petitioner as well as the respondent No.8 are not opposing any move to hold election/AGM of the Society. Mr. Choudhury as well as Mr. Laskar have submitted that once the new Board of Directors take over charge, it would be open for them to appoint a Secretary of the Board, which is an internal exercise and therefore, they are not opposing the holding of the election/AGM of the Society.

Mr. Talukdar responds by submitting that as per Section 48 of the Assam Cooperative Societies Act, 2007, the one-man Committee would be required to submit an application, supported by resolution by the Board of the registered Cooperative Society for holding election/AGM of the Society, acting as the Secretary of the Board and as and when such an application is received by the Government, necessary steps for holding the AGM/election of the Society would be initiated. It is also submitted at the bar that at present there is no legal

hurdle in holding the AGM/election of the Society subject to fulfilment of the criteria laid down in Section 48 of the Act of 2007.

Since there is a consensus at the bar that AGM/election of the Cooperative Society is required to be held at the earliest, I am of the view that nothing further survives for adjudication in this writ petition. Therefore, as agreed to by learned counsel for the parties, this writ petition is being disposed of by providing that the one-man Committee may submit appropriate application, along with resolution of the Board, for appointment of the Secretary and for holding of election/AGM of the Society. Once such an application is received, the same be processed by the respondent Nos.1 and 2 and necessary steps for holding the AGM/election of the Cooperative Society be taken at the earliest as per law. The application to be submitted by the one-man Committee be placed before the competent authority within two weeks from the date of receipt of a certified copy of this order.

With the above observation, the writ petition stands disposed of.

JUDGE

Comparing Assistant