

GAHC010107912023



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

Case No. : WP(C)/2797/2023

SAYED HUSSAIN BORBHUYAN
S/O LT. MOIN UDDIN BORBHUIYA R/O VILL. NO. 1 MOUZADARGAON P.O.
NAKHUTI BAZAR DIST. HOJAI ASSAM PIN 782446

VERSUS

THE STATE OF ASSAM AND 12 ORS
REP BY THE COMMISSIONER AND SECRETARY TO THE GOV. OF ASSAM
COOPERATIVE DEPTT. DISPUR GUWAHATI 6

2:THE REGISTRAR OF COOPERATIVE SOCIETIES ASSAM
KHANAPARA GUWAHATI 22

3:THE ASSISTANT REISTRAR OF COOPERATIVE SOCIETIES
HOJAI
P.O.AND DIST. HOJAI ASSAM

4:THE SECRETARY
NAKHUTI SAMABAY SAMITEE LTD. P.O. NAKHTI BAZAR DIST. HOJAI
ASSAM PIN 782446

5:BILAYAT HUSSAIN
S/O SAHAB UDDIN AHMED R/O VILL. NO. 2 MOUZADAR GAON P.O.
NAKHUTI BAZAR P.S LUMDING DIST HOJAI ASSAM PIN 782446

6:DULAL UDDIN
S/O LT. ABDUL KHALEK R/O VILL. NO. 2 MOUZADAR GAON P.O.
NAKHUTI BAZAR P.S LUMDING DIST HOJAI ASSAM PIN 782446

7:HABIJ UDDIN
S/O JAINAL UDDIN R/O VILL. NO. 2KHAGORIJAN P.O. NAKHUTI BAZAR
P.S LUMDING DIST. HOJAI ASSAM PIN 782446

8:JAHANARA BEGUM
W/O MUJAMMIL HUSSAIN R/O VILL. NO. 2KHAGORI JAN P.O. NAKHUTI
BAZAR P.S LUMDING DIST. HOJAI ASSAM PIN 782446

9:AIN UDDIN
S/O NAJRUL HOQUE R/O VILL. NO. 1 MOUZADAR GAON P.O. NAKHUTI
BAZAR P.S LUMDING DIST. HOJAI ASSAM PIN 782446

10:ABDUL SUBAN
S/O MOHAMMAD ALI R/O VILL. SERKEY BASTI P.O. NAKHUTI BAZAR
P.S LUMDING DIST. HOJAI ASSAM PIN 782446

11:SOBIRAM BASUMATARY
S/O LT PANIRAM BASUMATARY R/O VILL. LALMATI MIDDLE P.O.
NAKHUTI BAZAR P.S LUMDING DIST. HOJAI ASSAM PIN 782446

12:ABDUL SAHID
S/O LT. ALTAB ALI R/O VILL. NO. 2 DEBEN GAON P.O. NAKHUTI BAZAR P.S
LUMDING DIST. HOJAI ASSAM PIN 782446

13:FIRUJA BEGUM
W/O ABUL KALAM R/O VILL. LANKAJAN P.O. TINALI BAZAR P.S LANKA
DIST HOJAI ASSAM PIN 78244

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : SC. CO. OP.

Linked Case : WP(C)/2837/2023

BILAYAT HUSSAIN AND 8 ORS
S/O- SHAHABUDDIN AHMED

R/O- VILLAGE 2 NO. MOUZADAR GAON

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

2: FIRUJA BEGUM
W/O- ABDUL KALAM

R/O- VILLAGE- LANKAJAN

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

3: MD. DULAL UDDIN
S/O- LATE ABDUL KHALEK

R/O- VILLAGE 1 NO. MOUZADAR GAON

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

4: HABIJ UDDIN
S/O- JOYNAL ABDIN

R/O- VILLAGE KHAGORIJAN

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

5: JAHANARA BEGUM
W/O- MUJAMMIL HUSSAIN

R/O- VILLAGE 2 NO. KHIRING KHIRING

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

6: AINUDDIN
S/O- NAJRUL HOQUE

R/O- VILLAGE 1 NO. MOUZADAR GAON

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

7: ABDUL SOBAN

S/O- MOHAMMAD ALI

R/O- VILLAGE CHARKEBASTI

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

8: ABDUL SHAHID
S/O- LATE ALTAB ALI

R/O- VILLAGE 2 NO. DEBEN GAON

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.

9: SABIRAM BASUMATARY
S/O- LATE PANIRAM BASUMATARY

R/O- VILLAGE LALMATI

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.
VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM

CO-OPERATION DEPARTMENT

DISPUR
GUWAHATI- 06.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI-22.

3:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
HOJAI
PO- HOJAI
DIST- NAGAON

ASSAM
PIN-
4:THE SECRETARY
NAKHUTI CO-OPERATIVE SOCIETIES LTD

NAKHUTI BAZAR

P.O.- NAKHUTI BAZAR

DISTRICT- NAGAON
ASSAM.
PIN- 782446.

Advocate for : MR. S ISLAM
Advocate for : SC
CO OP appearing for THE STATE OF ASSAM AND 3 ORS

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

08.08.2023

Heard Mr. P. K. Roy Choudhury, learned counsel appearing for the writ petitioner in WP(C) No.2797/2023. I have also heard Mr. S. Islam, learned counsel for the petitioners in WP(C) No.2837/2023.

2. Ms. M. D. Borah, learned Standing Counsel, Cooperation Department, Assam has appeared for the official respondents in both these writ petitions.

3. The writ petitioner in WP(C) No.2797/2023 and one Sri Siddek Ali were originally selected as the Chairman and Vice Chairman of the Nakhuti Samabai Samiti Limited in the district of Hojai in the meeting of the Board of Directors held on 30.07.2022. However, on a complaint lodged by the private respondent Nos.5 to 13, the Registrar of Cooperative Societies, Assam i.e. the respondent No.2 herein, has passed the order dated 28.04.2023 setting aside the selection of the petitioner as the President/Chairman of the S.S Ltd. as well as the

selection of one Siddek Ali as the Vice Chairman of the said Society. Aggrieved by the order dated 28.04.2023, the writ petitioner has approached this Court by filing WP(C) No.2797/2023.

4. By an interim order dated 23.05.2023 passed in the said writ petition, this Court had stayed the operation of the order dated 28.04.2023 but had granted leave to the respondent No.2 to re-hear the parties on the question of validity of selection of the petitioner for the post of President/Chairman of the Nakhuti S. S. Ltd. and pass appropriate order therein. Accordingly, the respondent No.2 had conducted re-hearing in the matter and thereafter, issued order dated 15.07.2023 holding that the selection of Chairman and Vice Chairman of the Nakhuti S. S. Ltd. in the Board of Directors meeting held on 30.07.2022 was not convened as per the procedure laid down under the law. Accordingly, the original order dated 28.04.2023 was affirmed by issuing the order dated 15.07.2023.

5. Mr. Roy Choudhury submits that his client has already filed a separate writ petition challenging the order dated 15.07.2023.

6. It appears that WP(C) No.2837/2023 was preferred by the Board of Directors of the aforesaid S. S. Limited, who are the original complainants, alleging that no action has been taken by the authorities for convening a fresh meeting of the Board of Directors for selection of President and Vice President of the S. S. Limited.

7. Since the selection of the writ petitioner in WP(C) No.2797/2023 as the President of the Nakhuti S. S. Limited and one Sri Siddek Ali as the Vice President of the said S.S. Limited has been held to be illegal, subject to order of the Court, if any, passed in the proceeding challenging the notification dated 15.07.2023,

the said persons cannot continue in the office of the President and the Vice President of the said S. S. Ltd. Once an order is passed to that effect by the respondent No.2, law would take its own course. If that be so, this Court is of the opinion that nothing further survives for adjudication in both these writ petitions at this point of time.

8. Mr. Roy Choudhury submits that he would not oppose any order closing the writ petitions provided his client is granted liberty to urge all legal grounds in the newly instituted writ petition challenging the order dated 15.07.2023.

9. The learned counsel appearing for the department as well as the private respondents have not opposed the said prayer.

10. In view of the above, these writ petitions are being disposed of by providing that subject to further order, if any, that may be passed by this Court in the writ petition preferred by the present petitioner in WP(C) No.2797/2023 assailing the order dated 15.07.2023, it would be open for the authorities to initiate appropriate steps in the matter, as may be permissible under the law.

11. It would also be open for the petitioner in WP(C) No.2797/2023 to urge all legally permissible ground in the newly instituted writ petition assailing the order dated 15.07.2023.

12. Both the writ petitions stand disposed of accordingly.

A copy of the order dated 15.07.2023 be retained in the record of this case.

JUDGE

Comparing Assistant