

GAHC010115822023



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

Case No. : WP(C)/3061/2023

ESAB ALI AND 5 ORS
S/O LATE FAJAL HOQUE
VILL AND P.O. BARBALA
DIST. BARPETA, ASSAM

2: AZAHAR ALI
S/O LATE INTAZ ALI
VILL- PUTLARTARY
P.O. JARABARI
DIST. BARPETA
ASSAM

3: JAHIDUL ISLAM
S/O LATE ABBAS ALI
VILL- AND P.O. BARBALA
DIST. BARPETA
ASSAM

4: HASINA BEGUM
W/O NABAB ALI
VILL- NABAB ALI
VILL- BETBARI
P.O. BARBALA
DIST. BARPETA
ASSAM

5: SAFIQUUL ISLAM
S/OLATE ABDUL BAREK
VILL AND P.O. KAMALPUR
DIST. BARPETA
ASSAM

6: MAINAL HOQUE
S/O LATE TOLA MIAH

VILL- BETBARI
P.O. BARBALA
DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY ITS PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
CO-OPERATION DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE REGISTRAR CO-OPERATIVE SOCIETIES
GUWAHATI-1
ASSAM

3:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
GUWAHATI.

4:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES

B.B. ROAD
BARPETA
ASSAM-781301

5:THE SECRETARY

PASCHIM BETBARI SAMABAY
SAMITI LTD.
BARBALA
P.O. BARBALA
P.S. HOWLY
DIST. BARPETA
ASSAM
PIN-781316

6:ATOWAR RAHMAN
S/O LATE ABDUL BAREK
VILL- KALJHAR
P.O. HOWLY
P.S. HOWLY
PIN-781316
DIST. BARPETA
ASSAM

7:ABU RAIHN KHAN
S/O ABDUL LATIF KHAN
VILL- KAMALPUR

P.O. KAMALPUR
P.S. BARPETA
PIN-781352
DIST. BARPETA
ASSA

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 30.05.2023

Heard Mr. M.K. Choudhury, learned senior counsel, assisted by Mr. T.N. Srinivasan, learned counsel for the petitioners. Also heard Mr. S.K. Talukdar, learned standing counsel for the respondent nos. 1 to 5 and Mr. M.U. Mondal, learned counsel appearing for respondent nos. 6 and 7.

2. In view of the nature of order proposed to be passed, the Court finds no point in issuing the notice of motion in the matter.

3. The petitioners are all elected members of the Board of Directors of Paschim Betbari Samabay Samiti, Barbala, Barpeta. The elections for the Board of Directors were held on 08.05.2023 and results were declared on 10.05.2023. The Secretary of the said Samabay Samiti (respondent no.5) had called a Board meeting on 23.05.2023 for selection/ election of the President and Vice-President of the new Board of Directors for the year 2023-28. The petitioners herein had submitted a representation before the respondent no.5, thereby informing him that they had received the notices in the penultimate hour and therefore, requested for fixing another date for convening a Board meeting. The

petitioners have annexed the said representations at Annexure-C to E of this writ petition. Nonetheless, elections were held on 23.05.2023, and the Members present had elected the respondent no. 6, namely, Atowar Rahman as the President and respondent no. 7, namely, Abu Raihan Khan as Vice-President of the said Samabay Samiti. Accordingly, the aggrieved writ petitioners are before this Court by filing this writ petition under Article 226 of the Constitution of India, assailing the resolution taken in the Board meeting dated 23.05.2023 for election of President and Vice-President.

4. Although, the learned counsel for the caveator/ respondent nos. 6 and 7 has opposed this prayer, but considering the fact that on the date of holding of the Board meeting i.e. on 23.05.2023, two of the petitioners had submitted a representation for postponing the election process, and another petitioner had submitted his representation on 24.05.2023, the Court is of the considered opinion that ends of justice would be served by directing the respondent no.5 i.e. the Secretary of the Paschim Betbari Samabay Samiti, Barbala, Barpeta to hold a fresh meeting of the Board of Directors for selection/ election of the President and Vice-President of the new Board of Directors for the year 2023-28.

5. Accordingly, the Court is inclined to interfere with the resolution taken by the Board of Directors on 23.05.2023 for election of the respondent nos. 6 and 7 as President and Vice-President respectively of the said Samabay Samiti. At the same time, the respondent no. 5 is directed to hold a fresh meeting of Board of Directors of the said Samabay Samiti on 15.06.2023, as agreed to by the learned senior counsel for the petitioners and the respondent nos. 6 and 7. However, it would be permissible to the respondent no. 5 to fix any other date

as per convenience of all concerned.

6. It is also provided that insofar as the petitioners and the respondent nos. 6 and 7 are concerned, as the order has been passed in their presence, no fresh personal notice is required to be served by the respondent no.5 if meeting is held on 15.06.2023, but if meeting is held on any other date, then notice would have to be served on all of them. Insofar as the other Board of Directors are concerned, the respondent no. 5 shall ensure that at least 8(eight) days clear notice be given to remaining Board of Directors by serving notice to them personally or to the any adult members of their house by taking an acknowledgment and after noting the identity of the person receiving it.

7. Accordingly, this writ petition stands allowed at the motion stage to the extent as indicated above without issuance of notice on the respondents.

JUDGE

Comparing Assistant