

GAHC010137822023



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

Case No. : WP(C)/3690/2023

RANJIT SAIKIA

S/O- LT. SOM NATH SAIKIA, R/O- VILL- KANDHULIMARI, P.O. DHIG, DIST.-
NAGAON, ASSAM, PIN- 782123

VERSUS

THE STATE OF ASSAM AND 5 ORS

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, CO-OPERATION
DEPTT., DISPUR, GHY- 06

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES

ASSAM

KHANAPARA

GHY-781022

3:THE ADDITIONAL REGISTRAR OF CO-OPERATIVE SOCIETIES (ADMN)

ASSAM

KHANAPARA

GUWAHATI- 781022

4:THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES

NAGAON

ASSAM

5:THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES

KAMRUP, GUWAHATI

ASSAM

6:THE TREASURY OFFICER

NAGAON, ASSAM.

Advocate for the Petitioner : MR. S R GOGOI

Advocate for the Respondent : SC, CO OP

Linked Case : WP(C)/3398/2023

SANJIB SAIKIA
S/O- BHUBAN SAIKIA

RESIDENT OF VILL.- BARBHAGIYA

P.O.- JAMUGURIHAT

DISTRICT- SONITPUR
ASSAM

PIN- 784180.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

CO-OPERATION DEPARTMENT

DISPUR
GUWAHATI- 781006.

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

3:THE ADDITIONAL REGISTRAR OF CO-OPERATIVE SOCIETIES (ADMN)
ASSAM
KHANAPARA
GUWAHATI- 781022.

4:THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES
SONITPUR
TEZPUR
ASSAM.

5:THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES
KAMRUP
GUWAHATI
ASSAM.

6:THE TREASURY OFFICER
SONITPUR
TEZPUR

ASSAM.

Advocate for : MR. S R GOGOI

Advocate for : SC

CO OP appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/3654/2023

RAJKUMAR SAIKIA

SON OF LATE PHATIK CHANDRA SAIKIA

RESIDENT OF MAJ-JAJORI

P.O.- MAJGAON

P.S.- JAJORI

IN THE DISTRICT OF NAGAON

ASSAM

PIN- 782142.

VERSUS

THE STATE OF ASSAM AND 4 ORS

REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM

CO-OPERATION DEPARTMENT

DISPUR

GUWAHATI- 781006.

2:THE REGISTRAR

CO-OPERATIVE SOCIETIES

ASSAM

KHANAPARA

GUWAHATI- 781022.

3:THE ADDITIONAL REGISTRAR (ADMINISTRATION)

CO-OPERATIVE SOCIETIES

ASSAM

KHANAPARA

GUWAHATI- 781022.

4:THE ASSISTANT REGISTRAR

CO-OPERATIVE SOCIETIES

NAGAON

ASSAM.
5:THE TREASURY OFFICER
NAGAON
ASSAM.

Advocate for : M K BORAH
Advocate for : SC
CO OP appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/3653/2023

HRIDAYA NANDA BORAH
SON OF LATE RAMESH CHANDRA BORAH

RESIDENT OF KUJIDAH
P.O.- KUJIDAH
P.S.- JAJORI
IN THE DISTRICT OF NAGAON
ASSAM
PIN- 782142.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
CO-OPERATION DEPARTMENT
DISPUR
GUWAHATI- 781006.

2:THE REGISTRAR
CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI- 781022.

3:THE ADDITIONAL REGISTRAR (ADMINISTRATION)
CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI-781022.

4:THE ASSISTANT REGISTRAR
CO-OPERATIVE SOCIETIES
SONITPUR
TEZPUR
ASSAM.
5:THE TREASURY OFFICER
SONITPUR

TEZPUR
ASSAM.

Advocate for : M K BORAH

Advocate for : SC

CO OP appearing for THE STATE OF ASSAM AND 4 ORS

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

ORDER

24-08-2023

Heard Shri S. R. Gogoi, learned counsel for the petitioners in WP(C) Nos. 3690 & 3398 of 2023 and Shri M. K. Borah, learned counsel for the petitioners in WP(C) Nos. 3653 & 3654 of 2023. Also heard Shri V. Rajkhowa, learned Standing Counsel, Cooperation Department. Shri R. Borpujari, learned Standing Counsel, Finance Department is also present.

The grievance raised by the petitioners in these cases are common and in view of certain developments which has taken place, these writ petitions are taken up for disposal at the admission stage itself. Further, by the nature of the development which would be indicated in this order, a detailed narration of the facts and submissions may not be necessary at this stage.

The basic grievance of the petitioners in these cases is with regard to the communications dated 20.03.2023 and 21.03.2023 issued by the Registrar of Cooperative Societies, Assam/District Deputy Registrar of Cooperative Societies.

It appears that there were certain allegations with the manner of appointment of the petitioners, who are employees in Gr-III and Gr-IV posts under the establishment of the Deputy Registrar of Cooperative Societies, Nagaon and Tezpur. It further transpires that a preliminary enquiry was made and there was a *prima facie* finding which were against the petitioners with regard to the validity and legality of their appointments. On such consideration, the aforesaid impugned orders were issued directing withholding of salaries.

Shri Rajkhowa, the learned Standing Counsel, however, has informed this Court that salaries have been paid to the petitioners and therefore the impugned orders by which such salaries were withheld have become redundant. He accordingly submits that there may not be any live cause of action to be espoused.

On the other hand, both Shri Gogoi as well as Shri Borah, the learned counsel for the petitioners have submitted that though the ultimate direction of the impugned orders were to withhold the salaries, there are certain observations on the legality of the appointment which may cause prejudice to them. Accordingly, it is submitted that unless the orders are set aside, it cannot be said that there is no live cause of action.

After considering the submissions and the developments which have taken place, namely that the salaries of the petitioners have been released and this fact not being disputed, this Court is of the opinion that interest of justice would be served and the equities would also be balanced if the writ petitions are closed with an observation that unless the due process of law is followed by adhering to the Rules governing the field with regard to declaring the appointments of the petitioners to be invalid, the petitioners would be entitled to the salaries. Further, since the salaries have already been released effectively, there may not be any live issue to be decided. In view of the above discussions and observations made, the writ petitions are closed.

It is however made clear that in case of any adverse action, the petitioners would be at liberty to approach this Court and closure of this writ petitions shall not be a bar for such action.

JUDGE

Comparing Assistant