

GAHC010146592023



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

**Case No. : WP(C)/3895/2023**

ASSAM YUVAK ADARSHA CO-OPERATIVE BAHUMUKHI SOCIETY  
LIMITED  
A CO-OPERATIVE UNDER THE SOCIETIES REGISTRATION ACT, 1949  
HAVING ITS REGISTERED OFFICE AT VILL- BARBILA BILPAR, P.O.-  
HAHARA, P.S.-SONAPUR, DIST- KAMRUP (M), REPRESENTED BY ITS  
SECRETARY SRI NIKHIL BISWAS, AGE-39 YEARS, S/O RAIDHAN BISWAS,  
R/O VILL- BORBILA BILPAR, P.O.- HAHARA, P.S.-SONAPUR, DIST- KAMRUP  
(M), ASSAM, PIN-782402

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF  
ASSAM, DISPUR, GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY  
GOVT. OF ASSAM  
CO-OPERATIVE DEPARTMENT  
DISPUR  
GUWAHATI-781006

3:THE REGISTRAR OF CO-OPERATIVE SOCIETIES  
ASSAM  
KHANAPARA  
GUWAHATI  
DIST-KAMRUP (M)  
PIN-781022

4:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES  
COMMISSIONER  
GUWAHATI  
DIST-KAMRUP (M)

ASSAM  
PIN-781005

5:NITYA NANDA GOGOI  
S/O M. GOGOI  
MEMBER OF TILA BASTI CO-OPERATIVE SOCIETY  
VILL- BORBILA BILPA  
P.O.-HAHARA  
P.S.-SONAPUR  
DIST- KAMRUP (M)  
ASSAM  
PIN-78240

**Advocate for the Petitioner** : MR. U K GOSWAMI

**Advocate for the Respondent** : GA, ASSAM

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

**ORDER**

**Date : 30-06-2023**

Heard Mr. TJ Mahanta, learned senior counsel assisted by Mr. UK Goswami, learned counsel for the petitioner as well as Mr. M. Chetia, learned Govt. Advocate appearing for the respondent no.1 and Mr. SK Talukdar, learned standing counsel for the Corporation department appearing for the respondent nos.2, 3 and 4 and Mr. K. Gogoi, learned counsel for the respondent no.1 as well as Mr. AK Gupta, learned counsel for the respondent no.5.

2. In view of the nature of the order proposed to be passed, issuance of notice on the respondents is dispensed with.

3. In brief the case of the petitioner is that the petitioner's Society consisting of 79 members is operating an Agricultural field within the Borbil

Bilpar. The Society was registered in the year 1983. It is projected that since the year 1964, the forefathers of the members of the petitioner's Society had been enjoying the land, which is currently owned by the petitioner's Society. The petitioner Society is in dispute with the respondent no.5 which is not required to be gone into at this stage. It would suffice to mention that the respondent no.5 and others had submitted a petition before the Registrar of Cooperative Societies contains certain allegations against the petitioner's Society. Pursuant to the said complaint the Registrar of Cooperative Societies, Assam issued a notice dated 02.02.2023 requiring the petitioner's Society to attend the office Chamber of the Registrar of Cooperative Societies, Assam on 10.02.2023 at 10 a.m. for hearing of the matter.

4. It is projected that on 26.05.2023, the petitioner's Society through its Secretary had appeared before the Registrar of Cooperative Societies, Assam and submitted a prayer for providing with a copy of the petition dated 30.09.2022 submitted by the respondent no.5 without supportive documents. It is submitted that the petitioner was never provided with a copy of the complaint dated 30.09.2022 without any supportive documents. However, it is claimed that although in the impugned order dated 22.06.2023 it has been reflected as if the petitioner had participated in the hearing but it is submitted by the learned senior counsel for the petitioner that in fact no opportunity was given to the petitioner because copies of the complaint and supportive documents were never provided for which the petitioner could not submit any written statement or reply. Accordingly, it is submitted that the reflection in the order that the petitioner was heard was only an eyewash as the petitioner could not have been heard without copy of the complaint or any supportive documents.

5. The learned senior counsel for the petitioner has also submitted that although it has been mentioned in the order that hearings were held on various dates but it is submitted that the dates on which matters were heard were not disclosed in the order, and it is submitted that in fact the petitioner was never heard.

6. Accordingly, it is submitted that the petitioner has been seriously prejudiced in the proceedings which has culminated in the order dated 22.06.2023 and accordingly, the said order has been assailed in the present writ petition filed under Article 226 of the Constitution of India.

7. The learned standing counsel for the Cooperation Department has raised a preliminary issue about maintainability of the writ petition at the behest of the petitioner's Society in respect of which impugned order has been passed by cancelling the registration and by placing the Society into liquidation.

8. In this regard taking into note the nature of order which is proposed to be passed, the Court is inclined to hold that the writ petition would be maintainable on the ground that the petitioner Society is assailing the order dated 22.06.2023, by which the registration of the said Society was cancelled and therefore, for the limited purpose of agitating the grievance against the order, the writ petition is held to be maintainable.

9. The learned standing counsel for the Cooperation Department has referred to the provision of section 111 of the Assam Cooperative Societies Act, 2007 and it is submitted that the Registrar has the power to review its own order and that under sub-section 2 of section 111 and under sub-section 3 of section 111 of the said Act, appeal against the order passed by the Registrar would be maintainable before the State Govt. Hence, he has suggested that it would be open to the petitioner to seek any of the statutory remedy for assailing the impugned order.

10. At this stage, the learned senior counsel for the petitioner has submitted that as the grievance of the petitioner is that the petitioner was not provided with the copy of the complaint by respondent no.5 or any other supporting document, so no purpose would be served to relegate the petitioner to approach the appellate or revisional authority as the petitioner would still be handicapped having no document to base its appeal/ revision.

11. Therefore, the Court finds that the grievance expressed by the learned senior counsel for the petitioner is sustainable. Therefore the Court is of the considered opinion that ends of justice would be met by directing the Registrar of Cooperative Societies, Assam to provide the petitioner Society and/ or its President/ Chairman/ Secretary with a copy of the complaint dated 30.09.2022, submitted by the respondent no.5 along with all the documents he intends to rely on for the purpose of adjudicating upon the complaint made by the respondent no.5.

12. In order to ensure timely adjudication of the matter, the Court proposes that upon production of a certified copy of the order by the petitioner, (1) the Registrar of Cooperative Societies, Assam will provide the complaint dated 30.09.2022 submitted by the respondent no.5 along with all the documents for adjudication of the matter. The same shall be supplied within a period of 7 days from the date of receipt of the certified copy of the order. In this regard the petitioner shall furnish e-mail address as well as mobile number or Whatsapp or telegram so as to enable the said authority to transmit copy of the complaint and supporting document, (2) within 7 days from the date of receipt of complaint and document of the office of the Registrar of Cooperative Societies, Assam, the petitioner shall file their appeal/ review against the impugned order dated 22.06.2023 before the competent/ prescribed authority.

13. The learned counsel for the respondent no.5 shall provide e-mail address of the respondent no.5 to the learned counsel for the petitioner so as to send a copy of the appeal/ review petition to the respondent no.5, failing which the respondent no.5 shall have to collect the copy of the appeal/ review filed by the petitioner through the office of the Registrar of Cooperative Societies, Assam.

14. The respondent no.5 shall also file his objection within 14 days from today.

15. The competent Appellate Authority in the State Govt. and/ or the Reviewing Authority i.e. the Registrar of Cooperative Societies, Assam shall hear

the matter by giving an opportunity to the petitioner Society for personal hearing through its members or through their learned counsel as well as to the respondent no.5, and the appeal/ review should be heard and disposed of by the competent authority within an outer period of 21 days thereafter.

16. It is provided that till the matter is finally heard and disposed of, the operation of the impugned order bearing no.CMP.35/ 2020/244 dated 22.06.2023 shall remain suspended.

17. It is clarified that this Court has not entered into the merit of this writ petition and the directions were issued by taking into account that the right of the petitioner to be heard which has been found to have been violated and nothing contained in this order shall be construed to be a final opinion of the Court on merit.

18. This writ petition stands disposed of at the motion stage without issuing notice to the respondents.

**JUDGE**

**Comparing Assistant**