

GAHC010152142023



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

Case No. : WP(C)/3974/2023

MOTAHER ALI PRODHANI AND ANR
S/O- LATE MONSER ALI PRODHANI, R/O- VILL- MADHUSOULMARI PART-I,
P.O- MODHUSOULMARI, DIST- DHUBRI, ASSAM

2: AYESHA PRODHANI @ AYENA PRODHANI
W/O- LATE MOTHER ALI PRODHANI
R/O- VILL- MADHUSOULMARI PART-I
P.O- MODHUSOULMARI
DIST- DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT OF ASSAM,
COOPERATION DEPTT, DISPUR, GHY- 06

2: THE REGISTRAR OF COOPERATIVE SOCIETIES
ASSAM
KHANAPARA
GHY- 22

3: THE ASSTT REGISTRAR OF COOPERATIVE SOCIETIES
DHUBRI
P.O AND DIST- DHUBRI
ASSAM
PIN- 783301

4: THE DISTRICT DEPUTY REGISTRAR OF COOP SOCIETIES
DHUBRI
P.O AND DIST- DHUBRI
ASSAM
PIN- 783301

5:THE RETURNING OFFICER/ONE MAN COMMITTEE
MADHUSOULMARI SAMABAI SAMITY LTD
GOURIPUR
DIST- DHUBRI
ASSAM
PIN- 783331

6:THE SECRETARY
MADHUSOULMARI SAMABAI SAMITY LTD
GOURIPUR
DIST- DHUBRI
ASSAM
PIN- 783331

7:AYUB ALI
S/O- LATE KAIBAR ALI
R/O- VILL- ROWA PT-III
P.O- TIAMARI
DIST- DHUBRI
ASSAM
PIN- 783331

8:AHMED HUSSAIN CHOUDHURY
S/O- LATE UPAT ULLAH SK
R/O- VILL- ROWA PT-III
P.O- TIAMARI
DIST- DHUBRI
ASSAM
PIN- 78333

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : SC, CO OP

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

ORDER

Date : 13.07.2023

Heard Mr. N. Haque, learned counsel for the petitioners. Also heard Mr. S.K. Talukdar, learned standing counsel for the respondent nos.1 to 5.

2. In brief, the case of the petitioners is that they are the shareholder

of Madhusoulmari Samabai Samity Ltd. of Dhubri district. The earlier Board of Directors of the said society was dissolved by an order dated 18.03.2023 and an One Man *Ad Hoc* Committee was appointed for running the said society. On 30.06.2023, the Secretary of the said society had published an election notice to hold the election of the society on 16.07.2023. The grievance of the petitioners is that the voters list is defective as the names of the petitioner are found deleted, whereas names of some persons, who were not previously member of the society, are found to be included. It is submitted by the learned counsel for the petitioners that on 10.07.2023, an appeal has also been filed before the Registrar of Cooperative Societies, Assam for taking necessary action. However, the said matter has not been taken up for adjudication. It is submitted that if no order is passed by 15.07.2023, the matter would become infructuous as election would be held on 16.07.2023.

3. It is submitted by the learned standing counsel for the Cooperation Department that otherwise an election dispute can be raised after 3 days from the date of declaration of the result.

4. In view of the nature of dispute raised and the nature of order proposed to be passed, issuance of notice on the respondents including the private respondent nos.6 to 8 is dispensed with.

5. As the petitioner has already approached the Registrar of Cooperative Societies, Assam alleging incorrectly prepared voters list, the Court is of the considered opinion that the Registrar of Cooperative Societies, Assam, being the highest authority in the Cooperative Society would definitely have inherent power under section 41 of the Assam Cooperative Societies Act to pass appropriate orders. It may not be necessary to wait till adverse election result is declared.

6. Accordingly, as the petitioner has already filed an appeal, the Court is inclined to close this writ petition with liberty to the petitioners to move the Registrar of Cooperative Societies, Assam with a prayer for interim relief, which would be considered by the said authority in its own merit without being influenced by this order.

7. The petitioners are also required to take note of the provisions of Rule 27 of the Assam Cooperative Societies Election Rules, 2019.

8. The petitioner is permitted to move the Registrar of Cooperative Societies, Assam with a downloaded copy of this order if certified copy cannot be obtained for some reason.

9. With the aforesaid observation, this writ petition stands disposed of.

JUDGE

Comparing Assistant