

GAHC010154912023



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

Case No. : WP(C)/4003/2023

DULAL ALI AND 6 ORS
S/O LATE MAYSER ALI, R/O VILL- NO. 2 BORKUN, P.O.-BHURAGAON, DIST-
MORIGAON, ASSAM, PIN-782121

2: ABUL HASHIM
S/O LATE MEA BAUX
R/O VILL- FALIHAMARI PAM
P.O.-FALIHAMARI PATHAR
P.S.-BHURAGAON
DIST- MORIGAON
ASSAM
PIN-782127

3: SAIDUL ISLAM
S/O ABUL HUSSAIN
R/O VILL- KUPOTIMARI
P.O.-BHURAGAON
DIST- MORIGAON
ASSAM
PIN-782121

4: NURUL ISLAM
S/O LATE NAKBER ALI
R/O VILL- ODALAVATI
P.O.-BHURAGOAN
DIST- MORIGAON
ASSAM
PIN-782121

5: SMTI. JAMILA KHATON
D/O ASRAB ALI
R/O VILL- BALIDONGA
P.O.-BHURAGAON
DIST- MORIGAON

ASSAM
PIN-782127

6: SHOHIDUL ISLAM
S/O ABDUL SALAM
R/O VILL- ODALAVATI
P.O.-BHURAGAON
DIST- MORIGAON
ASSAM
PIN-782121

7: ANWAR HUSSAIN
S/O SANMIYA
R/O VILL- NO. 1 BORKUR
P.O.-BHURAGAON
DIST- MORIGAON
ASSAM
PIN-78212

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM, COOPERATION DEPARTMENT, DISPUR, GUWAHATI-6

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

3:THE ZONAL JOINT REGISTRAR OF COOPERATIVE SOCIETIES
GUWAHATI ZONE
BHANGAGARH
GUWAHATI-5

4:THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES
MORIGAON
DIST- MORIGAON
ASSAM
PIN-782105

5:ONE - MAN COMMITTEE (GOVT. OFFICER ON MANAGEMENT)
BHURAGAON SAMABAY SAMITY LTD.
MORIGAON
ASSAM
PIN-782121

6:THE SECRETARY

BHURAGAON SAMABAY SAMITY LTD.
MORIGAON
ASSAM
PIN-78212

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : SC, CO OP

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : --19.07.2023

Heard Mr. M. Hoque, learned counsel, for the petitioners. Also heard Mr. G. Bordoloi, learned standing counsel for the Cooperation Department.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioners have challenged the order dated 02.05.2023 and notice dated 15.07.2023 issued by the Jonal Joint Registrar of Cooperative Societies Guwahati and respondent No. 5 and 6. By the said order, the management of the Bhuragaon S.S. Ltd., located in the Morigaon district was dissolved.

3. At the outset, the learned counsel for the petitioners has submitted that the present petitioners have also filed another writ petition, being WP(C) No. 1503 of 2023, wherein the petitioners have made a prayer for extension of their term as Board of Directors of Bhuragaon Samabay Samiti Ltd. It is submitted that as the Board has already been dissolved and One-Man Committee has taken over affairs of the said society and the election process has been initiated and therefore, the said writ petition has become infructuous. The said statement made by the learned counsel for the petitioner has been noted.

4. The learned counsel for the petitioners has submitted that he has

instruction to the effect that if the determination of the present writ petition takes some more time, it would frustrate the intention of the petitioners to have the new Board of Directors reconstituted and therefore, it is submitted that in this case, this Court may be pleased to direct the One Man Committee to hold the elections of the Board of Directors of the said society within a time frame, failing which the petitioners, being the members of the erstwhile Board of Directors be permitted to hold the election within the said time frame.

5. The learned standing counsel for the Cooperation Department opposes the prayer to allow the erstwhile Board of Directors to hold the election. However, he has no objection if the One Man Committee is directed to hold the AGM/ Election meeting as per notice dated 15.07.2023.

6. From the provision of the Assam Cooperative Societies Act, 2007 and rules framed thereunder, it appears that to hold an AGM for the purpose of election, fifteen days notice is required. Therefore, the Court is of the considered opinion that ends of justice would be met by directing the One Man Committee appointed by the Zonal Joint Registrar of Cooperative Societies Guwahati to ensure that the elections for the Board of Directors of the Madhusoulmari S.S. Ltd. should be held within a period of 60 (sixty) days from the date of receipt of the certified copy of this order.

7. On a consideration of the projection made in this writ petition that prior to dissolution of the Board of Directors, the resolution was adopted to hold the AGM/ elections but at that relevant time, due to Covid-19 protocol, the permission to hold election/ AGM was not granted. Under such circumstances, the Court is inclined to hold that due to non-holding of election within the time provided, the erstwhile Members of the Board of Directors including the

petitioners would not suffer disqualification as provided under Section 40 (4)(a) and (e) and 41(4) of the Assam Cooperative Societies Act, 2007 and they will be entitled to participate in the ensuing elections of the Board of Directors of the said society.

8. In view of the discussions above, this writ petition stands allowed to the extent as indicate above.

9. There shall be no order as to cost.

JUDGE

Comparing Assistant