

GAHC010188812023



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

Case No. : WP(C)/4944/2023

CHANDRAJIT SAHU AND ANR.
S/O LATE RAMJATAN SAHU, R/O MALOW ALI, NEAR SIB MANDIR, DIST-
JORHAT, ASSAM, PIN-785001. GENERAL SECRETARY, SHRI BIHARI
THAKURBARI AND KALI MANDIR SAMITI, SOLICITOR ROAD, JORHAT

2: SANJAY JHA
S/O LATE GAURI SHANKAR JHA
R/O NO. 1 BAMUNGAON
NEAR NALKATTA L.P. SCHOOL
CHARIGAON ROAD
KENDUGARI BYE-PASS
JORHAT-785001. WORKING PRESIDENT OF SHRI BIHARI THAKURBARI
AND KALI MANDIR SAMITI
SOLICITOR ROAD
JORHA

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, FINANCE DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE REGISTRAR OF FIRMS AND SOCIETIES
ASSAM
HOUSE NO. 1
4TH FLOOR
BANPHOOL NAGAR PATH
BELTOLA ROAD
NEAR HOUSEFED
DISPUR
GUWAHATI
PIN-781006

3:THE DISTRICT COMMISSIONER

JORHAT
DIST-JORHAT
ASSAM
PIN-785001

4:THE SUPERINTENDENT OF POLICE
JORHAT
DIST-JORHAT
ASSAM
PIN-78500

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

03.10.2023

Heard Mr. B. D. Das, learned senior counsel assisted by Mr. S. Bora, learned counsel appearing for the writ petitioners. Also heard Mr. S. Baruah, learned Government Advocate, Assam appearing for the respondents.

The writ petitioner Nos.1 and 2 herein are the General Secretary and Working President, respectively, of the "Bihari Thakurbari and Kali Mandir Samiti", Jorhat, which was earlier known as "Hindustani Panchayati Thakurbari and Kali Mandir Samiti". It appears that the petitioners had sought permission from the District Administration, Jorhat for convening the AGM of the society, which is required to be done as per Section 4 of the Societies Registration Act, 1860. However, according to Mr. Das, no permission has been granted till today as a result of which, the AGM of the Society could not be held. Hence, this writ petition.

Mr. Baruah, learned Government Advocate, Assam has obtained instructions from the concerned authorities in terms of the earlier order dated 30.08.2023

passed by this Court and submits that apart from the fact that Section 144 Cr.P.C. is presently in force in the district of Jorhat with effect from 09.08.2023, there is also a civil proceeding pending before the court of Munsiff No.1, Jorhat in the form of Title Suit No.50/2023 wherein, an order of temporary injunction dated 20.07.2023 passed in Misc.(J) Case No.41/2023 is operating. Mr. Baruah submits that as per the ex-parte order of injunction, an order has been issued upon the petitioners and other members of the Society restraining them from holding the AGM of the said Society on the agenda of changing the name of the Society and therefore, unless the said issue is resolved, holding the meeting would amount violation of the order of the civil court.

Since the records of the Title Suit No.50/2023 is not available, this Court is not in a position to appreciate the nature of controversy involved in the suit. However, from the materials available on record, this Court is of the *prima-facie* opinion that in the civil suit pending before the learned Munsiff No.1, Jorhat, the issue of changing the name of the Society is one of the subject matter of dispute. Under the circumstances, if the petitioners want to hold the general meeting of the Society by adopting the name, as projected in the writ petition, then in that event, it would in all likelihood, have a relevant bearing in the pending proceeding before the learned Munsiff No.1. Although Mr. Das has submitted that his clients would not violate the order of the civil court if the AGM is permitted to be held, this Court is of the opinion that since there is already a pending proceeding before the learned Munsiff, the petitioners must approach the learned Civil Court and seek leave of the Court to hold the meeting and/or at least obtain a clarificatory order.

As such, this writ petition is being disposed of granting liberty to the petitioners to

approach the learned Civil Court by filing appropriate application/objection, that may be permissible under the law, with a prayer to hold the AGM. It is made clear that if the petitioners approach the learned court below, within two weeks from today, seeking leave to hold the general meeting, the said prayer be considered objectively and dealt with by the learned court below by a reasoned order to be passed as expeditiously as possible. In the event the learned Civil Court grants permission to hold the AGM, on such terms and conditions, as may be deemed fit and proper, the District Administration would facilitate holding the meeting in accordance with law.

With the above observation, the writ petition stands disposed of.

JUDGE

Comparing Assistant