

GAHC010217702023



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

Case No. : WP(C)/5688/2023

AYNAL HOQUE
THE PRESIDENT OF THE BOARD OF DIRECTORS OF PASCHIM MANDIA SS
LTD.,
MANDIA, BARPETA, ASSAM.
S/O- LATE AKBAR ALI,
VILL- SATRAKONARA SEAT NO. 6,
P.O.- SATRAKONARA,
P.S.- BAGHBAR,
DIST.- BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
CO-OPERATION DEPARTMENT, DISPUR,
GUWAHATI-6.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES ASSAM
KHANAPARA
GUWAHATI-22.

3:THE DISTRICT DEPUTY REGISTRAR OF COOP. SOCIETIES
BARPETA
ASSAM- 781301.

4:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES
BARPETA
ASSAM- 781301.

5:THE SECRETARY
PASCHIM MANDIA SS LTD.

MANDIA
P.O.- MANDIA

DIST.- BARPETA
ASSAM.

6:LOKMAN HUSSAIN
S/O- LATE HABIL UDDIN
VILL.- CHASRA NO. 1

P.O.- SATRAKONARA
P.S.- BAGHBAR

DIST.- BARPETA
ASSAM

PIN- 781308

Advocate for the Petitioner : MR. D A KAIYUM

Advocate for the Respondent : SC, CO OP

Linked Case : WP(C)/5039/2023

MINHAZ UDDIN
S/O- LATE ABDUL GANI
VILL.- SATRAKONARA SEAT NO. 6
P.O. SATRAKONARA
P.S. BAGHBAR
DIST. BARPETA
ASSAM

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4:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES
BARPETA
ASSAM
PIN- 781301.
5:THE PRESIDENT

PASCHIM MANDIA SS LTD.
MANDIA
P.O. MANDIA
DIST. BARPETA
ASSAM
PIN- 781308.
6:LOKMAN HUSSAIN
S/O- LATE HABIL UDDIN
VILL.- CHASRA NO. 1
P.O. SATRAKONARA
P.S. BAGHBAR
DIST. BARPETA
ASSAM
PIN- 781308.

Advocate for : MR. A R BHUYAN
Advocate for : SC
CO OP appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 04-10-2023

Heard Mr. D.A. Kaiyum, learned counsel for the writ petitioner in W.P.(C) No. 5688/2023 and Mr. M. Khan, learned counsel for the writ petitioner in W.P.(C) No. 5039/2023. Also heard Ms. M.D. Borah, learned standing counsel, Cooperation

Department, Assam appearing for the respondent Nos. 1 to 4 in both these writ petitions. Mr. M.U. Mondal, learned counsel has appeared for the private respondent No. 6 in both these writ petitions.

In both these cases the order dated 14-08-2023 passed by the Asstt. Registrar of Cooperative Societies, Barpeta approving the appointment of the respondent No. 6 as the Secretary of the Pachim Mandia GPSS Ltd. based on the resolution No. 2 dated 24-07-2023 adopted by the Board of Directors, has been put under challenge, *inter alia*, contending that there is no valid resolution of the Board backing the order dated 14-08-2023 of the Asstt. Registrar of the Cooperative Societies, Barpeta.

After going through the materials available on record, I find that although, by the resolutions dated 10-08-2023 and 12-08-2023, the Board of Directors had taken a decision not to implement the resolution No. 2 adopted in its meeting held on 24-07-2023, yet, subsequently, by the resolution adopted in the meeting the Board of Directors held on 28-08-2023, the resolutions adopted in the meeting held on 10-08-2023 and 12-08-2023 have been cancelled and the resolution No. 2 dated 24-07-2023 whereby it was decided that the respondent No. 6 should be appointed as the Secretary of the Society has been affirmed.

After going through the materials on record, it *prima facie* appears that the resolution No. 2 adopted in the meeting of the Board of Directors held on 24-07-2023 appointing the respondent No. 6 as the Secretary of the Board has been restored. The order dated 14-08-2023 has been assailed by the President of the Board by filing W.P.(C) No. 5688/2023 whereas, the same order has been assailed by another share holder of the

GPSS Ltd. by filing W.P.(C) No. 5039/2023. It has been brought to the notice of this Court that the impugned order dated 14-08-2023 is appealable under Section 111(1) of the Assam Cooperative Societies Act, 2007 and the President of the Board has also preferred an appeal before the Registrar of Cooperative Societies, which is pending disposal. If that be so, this Court is of the opinion that the appeal pending before the Registrar of Cooperative Societies ought to be decided on merit before the writ petitioners can be permitted to agitate their grievance by filing writ petitions. The learned counsel for both the sides have also agreed to such a recourse.

In view of the above, these writ petitions are disposed of, with the consent of the learned counsel for both the sides, by providing that the appeal preferred by the writ petitioner in W.P.(C) No. 5688/2023 be heard and decided on merit after giving him an opportunity of hearing in the matter.

The above exercise be carried out and completed as expeditiously as possible, but not later than 06 weeks from the date of receipt of a certified copy of this order, after giving an opportunity of being heard to all the contesting parties.

With the above observation, these writ petitions stand disposed of.

Caveat stands discharged.

JUDGE

GS

Comparing Assistant