

GAHC010200762023



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

Case No. : WP(C)/5238/2023

SHAHIDUL ISLAM
SON OF LATE ABDUL MAZIT,
RESIDENT OF VILLAGE- TUKTUKI,
P.O.- TUKTUKI, P.S.- DHING,
DISTRICT OF NAGAON- 782123,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY,
GOVT. OF ASSAM,
CO-OPERATION DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
CO-OPERATION DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI- 781022.

4:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
GUWAHATI ZONE
BHANGAGARH
GUWAHATI-05
ASSAM.

5:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
NAGAON

ASSAM
PIN- 782122.

6:ANUPAM HAZARIKA
SENIOR INSPECTOR/ AUDITOR OF COOPERATIVE SOCIETIES
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
NAGAON
ASSAM
PIN- 782122.

7:BHARAT CHANDRA SAIKIA
SON OF GHANA SHYAM SAIKIA
VILLAGE- KUBAIKATA
DHANIA BHETI GAON
P.O.- DHANIABHETI
DIST.- NAGAON
ASSAM
PIN- 782122.

8:JEHIRUL ISLAM
SON OF ABDUL JALIL
VILLAGE- CHAMAKA
P.O.- TUKTUKI
DISTRICT- NAGAON
ASSAM
PIN- 782123

Advocate for the Petitioner : MR. A SARMA
Advocate for the Respondent : SC, CO OP

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 18-09-2023

Heard Mr. A. Sarma, learned counsel appearing for the writ petitioner. Also heard Mr. S.K. Talukdar, learned standing counsel, Cooperation Department, Assam appearing for the respondent Nos. 1 to 5 as well as Mr. B. Hoque, learned counsel appearing for the respondent Nos. 7 and 8. None has appeared for the respondent No. 6.

The writ petitioner herein was elected as the Chairman of Kathaguri S.S. Ltd., Nagaon pursuant to the election of the Society held on 09-04-2023. However, the election of the society was called in question by instituting a proceeding before the Registrar of the Cooperative Society, i.e. the respondent No. 3 herein by some shareholders i.e. the private respondents herein on the ground that the election was vitiated by several anomalies in holding the process. After hearing the parties, the respondent No. 3 had issued the order dated 09-06-2023 cancelling the election of the Kathaguri S.S. Ltd held on 09-04-2023. Thereafter, by notification dated 04-08-2023, it was notified that the fresh election of the said society will be held soon. However, although more than 90 days have elapsed since the date of issuance of impugned order dated 09-06-2023, the elections of the Kathaguri S.S. Ltd. have not yet been held. As a matter of fact, a one man committee is presently running the affairs of the society.

Taking note of the submission made by the respondents' counsel that the order dated 09-06-2023 is appealable under Section 111 of the Assam Cooperative Societies Act, 2007, this Court had adjourned the matter till today so as to enable the learned counsel for the parties to obtain instruction.

Today when the matter is called up before this Court, Mr. Sarma has produced a copy of the memorandum of appeal filed by his client, i.e. the writ petitioner, before the Secretary to the Govt. of Assam, Cooperation Department, Dispur, Guwahati to submit that although his client had preferred an appeal before the Govt. on 07-07-2023, the said fact was not stated in the writ petition as the counsel was not furnished the necessary instruction. From the submission of Mr. Sarma, it is thus apparent that the petitioner has

already availed the appellate remedy.

It is admitted by the petitioner's counsel that an appeal lies against the order dated 09-06-2023 under Section 111(3) of the Act of 2007 and such appeal has also been preferred by the writ petitioner within the period of limitation, i.e. 60 days from the date of impugned order. If that be so, this Court is of the opinion that the appeal preferred by the petitioner must be heard and disposed of expeditiously. The learned counsel for the opposite parties have also agreed to such a recourse.

In view of the above, without commenting on the merits of the claims and counter claims of the parties, as projected at the bar, this writ petition stands disposed of by providing that the appeal preferred by the petitioner shall be heard by the appellate authority and be disposed of by a reasoned order, as expeditiously as possible, but not later than 06 weeks from the date of receipt of a certified copy of this order.

Petitioner to produce a certified copy of this order along with the copy of the memorandum of appeal, before the respondent No. 1 within 03 days from today for doing the needful.

The date of AGM/ election of the society shall now be notified only after the appeal preferred by the writ petitioner is finally heard and disposed of.

Writ petition stands disposed of.

JUDGE

GS

Comparing Assistant