

GAHC010210902023



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

Case No. : WP(C)/5512/2023

SANJAY DAS
S/O- JAWAHARLAL DAS ,
R/O- VILLAGE DIGHALTARANG,
P.O- DIGHALTARANG,
P.S-BAGHJAN, DIST- TINSUKIA, ASSAM, PIN-786151

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, COOPERATION DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE REGISTRAR OF COOPERTIVE SOCIETIES

ASSAM
KHANAPARA
GUWAHATI-22.

3:THE ZONAL JOINT REGISTRAR OF COOPERTIVE SOCIETIES
JORHAT ZONE
JORHAT

4:THE ASSISTANT REGISTRAR OF COOPERTIVE SOCIETIES
TINSUKIA
ASSAM

5:THE DEPUTY COMMISSIONER
TINSUKIA
ASSAM

6:BIKAS DAS

S/O- LATE SACHINDRA MOHAN DAS

R/O- DIGHALTARANG

DIST- TINSUKIA
ASSAM
PIN-786151

7:SUDHANGSHU DAS
S/O- LATE SADANDRA DAS

R/O- DIGHALTARANG

DIST- TINSUKIA
ASSAM
PIN-786151

8:JITEN DAS
S/O- LATE SAHADEV DAS

R/O- DIGHALTARANG

DIST- TINSUKIA
ASSAM
PIN-78615

Advocate for the Petitioner : MR. S BANIK

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 20/09/2023

Heard Mr. S. Banik, learned counsel for the writ petitioner. Also heard Mr. B. Rajkhowa, learned Standing Counsel, Cooperation Department, Assam, appearing for the respondent nos. 1 to 4 and Ms. S. Sarma, learned Government Advocate, Assam, appearing for the respondent no.5. Mr. A.B.T. Hoque, learned counsel is present on behalf of the respondent no. 6.

The central controversy involved in this writ petition pertains to the question of

legitimacy of either the writ petitioner or the respondent no. 6 to continue in the office of the Secretary of the Dibru-Dangari River Part-I Meen Samabay Samity Ltd.

It appears that vide resolution no.1, adopted in the meeting of the SS Ltd. held on 16/06/2023, the respondent no. 6 was removed from the post of Secretary of the Samity and as per resolution No. 3 adopted in the said meeting, the writ petitioner herein was appointed as the Secretary of the Samity. Consequently, the petitioner had taken over and continued to function as the Secretary of the SS Ltd. However, the Assistant Registrar of Cooperative Society, Tinsukia i.e. the respondent no. 4 herein, had passed order dated 27/06/2023 suspending the approval of resolution No.1 of the Board of Directors of the SS Ltd. adopted in the meeting dated 16/06/2023, as a result of which, the respondent no. 6 was restored back in office of Secretary.

When the above position was obtaining, the learned Single Judge of this Court had passed judgement and order dated 25/07/2023 in WP(C) No. 4083/2023, which was instituted by the present petitioner and two others thereby, observing that the order dated 27/06/2023 passed by the respondent no. 4 was without the authority of law. However, it appears that since the subject matter of the said writ petition was pertaining to the question of validity of the resolution adopted in the Board meeting dated 05/07/2023, the learned Single Judge did not pass any effective order interfering with to the order dated 27/06/2023, issued by the respondent no. 4.

Today, when the matter is called up, Mr. Banik, learned counsel for the writ petitioner submits that so as to end the uncertainty in the matter, the best recourse for this Court would be to direct the respondent no. 2 i.e. the Registrar of Cooperative Societies to decide on the question of legitimacy of the petitioner vis-à-vis the respondent no. 6 to continue in the office of the Secretary of the Society. Since the AGM of the society is scheduled on 29/09/2023, Mr. Banik submits that an attempt be made to decide on the said issue prior to the holding of the AGM.

Mr. Rajkhowa, learned Standing Counsel, Cooperation Department as well as Mr. Haque, learned counsel for the respondent no. 6 have also fairly agreed to such a recourse.

In view of the above, without commenting on the merit of the claims and counter

claims of the parties, this writ petition stands disposed of with the consent of the parties, by directing the respondent no. 2 to decide on the question of legitimacy of the writ petitioner vis-à-vis the respondent no. 6 to continue to function as the Secretary of the Board. The decision may be rendered either by the respondent no. 2 himself or through any other competent officer authorized by him, on that behalf.

Whatever be the outcome of the exercise, the same be communicated to the parties in writing.

Since the AGM of the Society is fixed on 29/09/2023, the decision in the matter be taken as expeditiously as possible, preferably before holding of the AGM of the society. Notices may be served upon the parties notifying the date of hearing and personal hearing may be given to them, if desired, before the final order is passed.

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

JUDGE

sukhamay

Comparing Assistant