

GAHC010230572022



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

**Case No. : WP(C)/7265/2022**

ABUL HUSSAIN AND 7 ORS.

S/O- LT. MUKSHED ALI, R/O- VILL- NO. 5 NANGLI, P.O. MANGALDOI, P.S.  
MANGALDOI, DIST.- DARRANG, ASSAM, PIN- 784125

2: RUSTAM ALI

S/O- LT. ABUL HUSSAIN  
R/O- VILL- M.C BANDIA  
P.O. MANGALDOI  
P.S. MANGALDOI  
DIST.- DARRANG  
ASSAM  
PIN- 784125

3: AMZED ALI

S/O- LT. TASHILUDDIN  
R/O- VILL- BAGHPORI  
P.O. MANGALDOI  
P.S. MANGALDOI  
DIST.- DARRANG  
ASSAM  
PIN- 784125

4: HARIMOHAN MONDAL

S/O- LT. G. MANDAL  
R/O- VILL- GEROIMARI  
P.O. MANGALDOI  
P.S. MANGALDOI  
DIST.- DARRANG  
ASSAM  
PIN- 784125

5: ASARUDDIN

S/O- LT. ASMAT ALI  
R/O- VILL- NO. 4 NONGLI

P.O. MANGALDOI  
P.S. MANGALDOI  
DIST.- DARRANG  
ASSAM  
PIN- 784125

6: JANMAJOY SARKAR  
R/O- VILL- NOWAMARI  
P.O. MANGALDOI  
P.S. MANGALDOI  
DIST.- DARRANG  
ASSAM  
PIN- 784125

7: MATIBAR RAHMAN  
S/O- LT. AJMAT AKAND  
R/O- VILL- BANDI  
P.O. MANGALDOI  
P.S. MANGALDOI  
DIST.- DARRANG  
ASSAM  
PIN- 784125

8: FORHAD ALI  
S/O- LT. ABDUL JUBBER  
R/O- VILL- GASBARI  
P.O. MANGALDOI  
P.S. MANGALDOI  
DIST.- DARRANG  
ASSAM  
PIN- 78412

VERSUS

THE STATE OF ASSAM AND 7 ORS.  
REP. BY THE ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM, CO-  
OPERATION DEPTT., ASSAM, ASSAM SECRETARIAT, DISPUR, GHY-06

2:ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM  
CO-OPERATION DEPTT.  
ASSAM  
DISPUR  
GHY-06

3:ADDL. SECY. TO THE GOVT. OF ASSAM  
CO-OPERATION DEPTT.  
ASSAM  
DISPUR

GHY-06

4:THE REGISTRAR OF CO-OPERATIVE SOCIETIES  
ASSAM  
KHANAPARA  
GHY-22

5:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES  
TEZPUR  
ASSAM  
PIN- 784001

6:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES  
DARRANG  
P.O. AND DIST.- DARRANG  
ASSAM  
PIN- 784105

7:THE DY. COMMISSIONER  
DARRANG  
P.O. AND DIST.- DARRANG  
ASSAM  
PIN- 784145

8:SENIOR INSPECTOR/AUDITOR OF CO-OPERATIVE SOCIETIES  
OFFICE OF THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES  
MANGALDOI  
ASSAM  
PIN- 78410

**Advocate for the Petitioner : MR. B K DAS**

**Advocate for the Respondent : SR. GA, ASSAM**

**BEFORE  
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 09.01.2023**

Heard Shri BK Das, learned counsel for the petitioners and Shri SK Talukdar, learned Standing Counsel, Cooperation Department, Assam.

2. The petitioners claim to be elected as Board of Directors of the Pub Rangamati Samabai Samity Ltd. (Cooperative Society) in the district of Darrang. The Annual General Meeting (AGM) for the year 2019-2020 was to be held on 30.09.2020 for which, a representation was submitted by the petitioners on 10.09.2020 seeking permission to hold the AGM. However, no permission was granted due to ongoing situation concerning the Covid-19 pandemic.

3. It is the case of the petitioners that the Cooperative Society, vide resolutions dated 01.04.2021, 30.09.2021, and 04.04.2022, had decided to hold the AGM. The Authority, however, again declined to grant permission. In the meantime, vide an order dated 01.04.2022, the Board of Directors were dissolved in terms of Section 41 (6) of the Assam Cooperative Societies Act, 2007.

4. The petitioners had earlier approached this Court by filing WP(C)/2581/2022 which was disposed of vide order dated 27.07.2022 by directing them to submit detail representation before the Addl. Chief Secretary, Govt. of Assam, cooperation Department, who, in turn, would pass a speaking order. The representation was, accordingly filed on 11.04.2022 which, however, was rejected vide the Speaking Order dated 02.09.2022.

5. Shri Das, learned counsel for the petitioners has submitted that the impugned action of the authorities in rejecting the application seeking permission to hold the meeting has been passed without taking into consideration the relevant factors and also by violating the mandate of law. The

learned counsel for the petitioners submits that all bona fide attempts to hold the AGM not being permitted by the authorities, the petitioners cannot be made to suffer by operation of law for not holding such meeting. As indicated above, in the midst of the proceedings, the Boards were already dissolved. It is, accordingly, submitted on behalf of the petitioners that interference be made by this Court so that the rights of the Board of Directors are not prejudicially affected because of no fault of theirs.

6. On the other hand, Shri Talukdar, learned Standing Counsel submits that the denial of permission was due to the ongoing situation of Covid-19 pandemic where there was strict enforcement of law not to have any public gatherings or public functions. The learned Standing Counsel, however, has fairly submitted that the cases of the petitioners for participating in the elections may be directed to be considered by the appropriate authorities by taking into consideration all the relevant factors, including the inability to hold the meeting.

7. Though a legal fiction is contemplated under the Statute for automatic dissolution for not being holding the AGM within a specified time, the situation in the present case are wholly different which had occurred due to the unprecedented situation of Covid-19 pandemic. Without taking that fact into consideration, disqualifying the petitioners from contesting the elections would be unfair and unjust.

8. In that view of the matter, it is directed that steps be taken by the One-Man Committee presently running the affairs of the Cooperative Society with the approval of the appropriate authorities to immediately hold the elections in which the petitioners be allowed to contest, if otherwise are found to be eligible. The aforesaid steps-actions be taken and the elections be held within an outer

limit of 45 days from today.

9. The writ petition is accordingly disposed of.

**JUDGE**

**Comparing Assistant**