

GAHC010248522023



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

Case No. : WP(C)/6430/2023

GIRIJA MOHAN KALITA AND 8 ORS
S/O- LATE KALIKANTA KALITA, VILL- BAGMARA, P.O. BAGMARA BAJAR
DIST.- BAJALI, ASSAM

2: SRI NARENDRA NATH DAS
S/O- LATE BISWANATH DAS
VILL. AND P.O. DAISUNDARI
DIST.- BAJALI
ASSAM

3: MD. INUS ALI
S/O- LATE SAFED ALI
VILL- PURBO KATHALMURI
P.O.- BAGHMARA BAZAR
DISTRICT- BAJALI
ASSAM

4: MD. ABDUL MAZID
S/O- LATE ATIULLAH SHEIKH
VILL. AND P.O. DAISUNDARI
DIST.- BAJALI
ASSAM

5: SRI PRAFULA DAS
S/O- LATE KRIPA DAS
VILL- CHAIBARI
P.O. RIHABARI
DIST.- BAJALI
ASSAM

6: SRI JOGENDRA SINGHA
S/O- LATE GHANSHYAM SINGH
VILL. AND P.O. OKAYA
DIST.- BAJALI

ASSAM

7: SRI GOPAL CHANDRA DAS
S/O- LATE BIPIN CH. DAS
VILL AND P.O. KATHALMURIGHAT
DIST.- BAJALI
ASSAM

8: SRI MUKUNDA KALITA
S/O- LATE PABAN KALITA
VILL- BARSIDHNI
P.O. KATHALMURIGHAT
DIST.- BAJALI
ASSAM

9: SRI HARI CHANDRA NATH
S/O- LATE GOGI NATH VILL- BORMANIKPUR
P.O. SARUMANIKPUR
DIST.- BAJALI
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE ADDITIONAL CHIEF 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 ZONAL JOINT REGISTRAR COOPERATIVE SOCIETIES
GUWAHATI ZONE
BHANGAGARH
GUWAHATI-05

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

5:SMTI NIJARA MUDAI
SENIOR INSPECTOR/AUDITOR C/O- THE ARCS
BARPETA
ASSAM

6:THE SECRETARY
MANIKPUR SS LTD.

MANIKPUR
BAGHMARA BAZAR
DIST.- BAJALI
ASSA

Advocate for the Petitioner : MR. A M KHAN

Advocate for the Respondent : SC, CO OP

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

18.11.2023

Heard Shri AM Khan, learned counsel for the petitioners. Also heard Shri J Bordoloi, learned Standing Counsel, Cooperation Department, Assam.

2. Considering the subject matter in dispute and the instructions received by the learned Standing Counsel, this writ petition is taken up for disposal at the admission stage itself.

3. The petitioners claim to be the elected Directors/Members of the Board of Directors of Manikpur SS Ltd. under the ARCS, Barpeta, Assam. The petitioners were elected in the year 2017 and their term had expired on 21.09.2022. It is submitted that due to the prevailing situation at that time pertaining to Covid 19, the AGM for the years 2020-2021 and 2021-2022 could not be held. Accordingly, they had filed applications before the Department to exempt them from the operation of Section 39 of the Assam Cooperative Societies Act, 2007. Thereafter the petitioner no. 1 along with some others had preferred WP(C)/2451/2022 and this Court vide order dated 04.04.2022 had directed not to take any coercive measures against the petitioner. The petition was

subsequently withdrawn and during the pendency of the same, a resolution was also adopted for holding the AGM/election and accordingly, permission was sought to hold the same. The approval not being granted, the petitioners had approached this Court after filing of numerous representations.

4. Shri Khan, learned counsel for the petitioners by referring to the order dated 31.10.2023 passed in this proceeding by this Court has submitted that an interim direction was passed to allow the petitioners to submit their nomination papers for the election scheduled on 14.11.2023 and it was further made clear that such participation would be subject to further order that may be passed in this proceeding. The learned counsel for the petitioner further submits that amongst the petitioners, petitioner no. 8 could not submit his nomination due to his illness.

5. Shri Bordoloi, learned Standing Counsel has submitted that as per instructions received, the elections were held on the scheduled date i.e., 14.11.2023. However, due to pendency of this case, the results have not been declared.

6. Shri Khan, learned counsel for the petitioners submits that he is agreeable to a direction for declaration of the results depending upon which the Board of Directors may be constituted.

7. In view of the aforesaid facts and circumstances and the submission made, this writ petition is closed by permitting the respondent authorities to declare the results within a period of 15 days from today and thereafter

constitute the Board of Directors of the Society in question in accordance with law.

8. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant