

GAHC010256082022



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

Case No. : WP(C)/8060/2022

JAMAL UDDIN AHMED AND 2 ORS
S/O. AIJUDDIN MUNCHI, VILL. RAMUA, P.O. BAHATI, P.S. MATIA, DIST.
GOALPARA, ASSAM.

2: MUSLEM SHEIKH

S/O. SARIFUDDIN SHEIKH
VILL. SIDHABARI
P.O. BAHATI
P.S. MATIA
DIST. GOALPARA
ASSAM.

3: SOHRAB AHMED

S/O. FAIJUDDIN SHEIKH
VILL. NAYAPARA
P.O. BAHATI
P.S. MATIA
DIST. GOALPARA
ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM,
COOPERATION DEPT., DISPUR.

2:THE REGISTRAR OF COOPERATIVE SOCIETIES

ASSAM
KHANAPARA
GUWAHATI-781022.

3:THE ADDL. REGISTRAR OF COOPERATIVE SOCIETIES

KOKRAJHAR (BTAD)
ASSAM
PIN-783370.

4:THE ASSTT. REGISTRAR OF COOPERATIVE SOCIETIES

GOALPARA
ASSAM.

5:THE RETURNING OFFICER

HOLDING THE ELECTION/AGM OF SIDHABARI GPSS LTD.
SIDHABARI
GOALPARA
ASSAM.

6:THE ENQUIRY OFFICER/SUB REGISTRAR OF COOPERATIVE SOCIETIES

OFFICE OF THE ARCS
GOALPARA
ASSAM.

7:ABDUR RAHMAN MANDAL @ RAHMAN MANDAL

CHAIRMAN SIDHABARI GPSS LTD.
VILL. BAHATI PART-I
P.O. BAHATI
GOALPARA
ASSAM
PIN-783125.

8:THE SECRETARY OF SIDHABARI GPSS LTD.

SIDHABARI
P.O. BAKAITARI
PIN-783125
GOALPARA
ASSAM.

9:THE DEPUTY DIRECTOR

FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS
GOALPARA
ASSAM

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

07.08.2023

Heard Mr. P. Hazarika, learned counsel appearing for the writ petitioners. Also heard Mr. S. K. Talukdar, learned Standing Counsel, Cooperation, Assam appearing on behalf of the respondent Nos.1 to 6. Mr. R. Ali, learned counsel is present on behalf of respondent No.7.

The three petitioners herein are the shareholders of Sidhabari Gaon Panchayat Samabai Simiti Limited in the district of Goalpara. They have approached this Court by filing the instant writ petition assailing the appointment of the respondent No.7 as the Chairman of the GPSS Ltd. on the ground that he had pecuniary interest in the functioning of the GPSS Ltd. and therefore, due to the bar created by Section 37(c) of the Assam Cooperative Societies Act, 2007 he could not have been appointed as Chairman of the said Society.

Mr. Talukdar, learned departmental counsel submits that whether the allegation made in the writ petition is correct or not would require factual verification, which would not be possible in a writ petition. Therefore, the respondent No.2 i.e. the Registrar of Cooperative Societies, Assam would be the competent authority to examine the facts and take a decision on the correctness of the allegations made in the writ petition. Mr. Talukdar submits that all the parties be relegated before the concerned authority so as to adjudicate of the aforesaid dispute by verifying the facts.

Mr. Hazarika and Mr. Ali have also fairly agreed to the said recourse.

In view of the above, without expressing any opinion on the merit of the claims and counter-claims of the contesting parties in this proceeding, the writ petition is being disposed of by providing that the respondent No.2 may either himself or through his nominee, cause an enquiry to be made into the allegations made by the petitioners in this case against the respondent No.7 and on ascertaining the facts, pass appropriate order after hearing both the parties. The exercise, as directed by this Court, be carried out and completed within a period of six weeks from the date of receipt of a certified copy of this order.

Whatever be the outcome of the proceeding, the same be communicated to the parties in writing. If either party feels aggrieved in the matter even thereafter, it would be open for them/him to approach this Court once again by filing a fresh writ petition.

JUDGE

Comparing Assistant