

GAHC010265432022



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

Case No. : WP(C)/8300/2022

JOY CHANDRA SINGHA AND 11 ORS
S/O BINUBABU SINGHA, VILLAGE- - TARAPUR MANIPUR BASTI PT VII,
P.O TARAPUR PT VII, DIST CACHAR, ASSAM.

2: JAHIR UDDIN MAZUMDER
S/O SOIF ALI MAZUMDER
VILLAGE- - TUPKAHANA PT I
P.O ARUNACHAL
DIST CACHAR
ASSAM.

3: MASUM AHMED @ MASUM AHMED MAZARBHUIYA
S/O NIJAM UDDIN MAZARBHUIYA
VILLAGE- - TARAPUR MAZUMDER BAJAR
P.O TARAPUR PT VII
DIST CACHAR
ASSAM.

4: SOMIR UDDIN BARBHUIYA
S/O SAHAB UDDIN BARBHUIAY
VILLAGE- - TARAPUR PT VII
P.O TARAPUR PT VII
DIST CACHAR
ASSAM.

5: LATIB UDDIN BARBHUIYA
S/O ROHIM ALI BARBHUIYA
VILLAGE- - TARAPUR PT VII
P.O TARAPUR PT VII
DIST CACHAR
ASSAM.

6: ABHINY CHUTIA
S/O BINOD CHUTIA

VILLAGE- - TARAPUR ASSAMESE BASTI
P.O TARAPUR PT VI
DIST CACHAR
ASSAM.

7: NAMAR ALI LASKAR
S/O LT. TAJAMUL ALI LASKAR
VILLAGE- - TARAPUR PT VII
P.O TARAPUR PT VII
DIST CACHAR
ASSAM.

8: GOPAL DAS GUPTA
S/O SUDHIR DAS
VILLAGE- - NATAJI NAGAR PT VII

DIST CACHAR
ASSAM.

9: INDRAJIT DAS GUPTA
S/O HAMENDRO DAS GUPTA
VILLAGE- -RAMNAGAR TARAPUR
P.O RAMNAGAR TUK
DIST CACHAR
ASSAM.

10: H. RAJU SINGHA
S/O LAL BIHARI SINGHA
VILLAGE- - TARAPUR MANIPUR BASTI PT VII
P.O TARAPUR PT VII
DIST CACHAR
ASSAM.

11: JOY KUMAR SINGHA
S/O BINU BABU SINGHA
VILLAGE- - TARAPUR PT VII
P.O TARAPUR PT VII
DIST CACHAR
ASSAM.

12: FARUK AHMED MAZARBHUIYA
S/O TAMIJ UDDIN MAZARBHUIYA
VILLAGE- - TARAPUR MAZUMDER BAZAR
P.O TARAPUR PT VI
DIST CACHAR
ASSAM

VERSUS

THE STATE OF ASSAM AND 19 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND 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 ASSTT. REGISTRAR
CO-OPERATIVE SOCIETIES
CACHAR
SILCHAR
P.O. AND P.S. SILCHAR. DIST. CACHAR ASSAM. PIN 788001.

4:THE ZONAL JOINT REGISTRAR
COOPERATIVE SOCIETIES
SILCHAR ZONE
SILCHAR.

5:THE RETURNING OFFICER
THE TARAPUR SAMABAI SAMITHI LTD.
CACHAR
DISTRICT- CACHAR
ASSAM.

6:THE ONE MAN COMMITTEE
THE TARAPUR SAMABAI SAMITHI LTD.
CACHAR
REPRESENTED BY SENIOR INSPECTOR/AUDITOR OF C.S.
OFFICE OF THE DIST. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES
CACHAR
SILCHAR. P.O. SILCHAR
DIST. CACHAR
ASSAM.

7:AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI
P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003.

8:HEMA CHETRY

W/O DON BAHADUR CHETRY
VILLAGE- MASSIMPUR BSF (GATE)
P.O ARUNACHAL
DIST-CACHAR
ASSAM
PIN-788025.

9:SIRAJ UDDIN SODIOL
S/O ILLIAS ALI SODIOL
VILLAGE- TUPKANA PART-I
P.O ARUNACHAL
DIST-CACHAR
ASSAM
PIN-788025.

10:ABUL UDDIN LASKAR
S/O LT. SAKAT ALI LASKAR
VILLAGE- TUPKANA PART-I
P.O ARUNACHAL
DIST-CACHAR
ASSAM
PIN-788025.

11:SAJIB UDDIN LASKAR
S/O LT. USMAN GONI LASKAR
VILLAGE- TUPKANA PART-I
P.O ARUNACHAL
DIST-CACHAR
ASSAM
PIN-788025.

12:JAKIR HUSSAIN MAZUMDER
S/O MOKOBIR ALI MAZUMDER
VILLAGE- TUPKANA PART-I
P.O ARUNACHAL
DIST-CACHAR
ASSAM
PIN-788025.

13:NAJIR UDDIN LASKAR
S/O ASAI MIA LASKAR
VILLAGE- TUPKANA SHEKPARA
P.O ARUNACHAL
DIST-CACHAR
ASSAM
PIN-788025.

14:SAFIQUE UDDIN BARBHUIYA

C/O AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI
P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003.

15:ABUL HUSSAIN SODIAL
C/O AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI
P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003.

16:BAHARUL ISLAM KHAN
C/O AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI
P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003.

17:NURUL HOQUE SODIAL
C/O AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI
P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003.

18:TOMIJUR RAHMAN MAZUMDER
C/O AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI
P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003.

19:KULSUMA BIBI
C/O AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI

P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003.

20:HEMANGGINI DAS
C/O AMIT BAURI
S/O LT SUBAL BAURI
VILLAGE- SUBADER BASTI
P.O SUBADER BASTI
DIST-CACHAR
ASSAM
PIN-788003

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : SC, CO OP

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

25.09.2023

Heard Mr. A. M. Barbhuiya, learned counsel for the petitioners. Also heard Mr. S. K. Talukdar, learned Standing Counsel, Cooperation Department, Assam appearing on behalf of respondent Nos.1 to 6. Mr. S.Banik, learned counsel is present on behalf of the respondent Nos.7 to 20.

The writ petitioners herein, numbering 12 in total, are the shareholders of Tarapur Samabai Samiti Ltd. situated in the district of Cachar. According to the petitioners, ineligible candidates have been allowed to participate in the last election of the Samabai Samiti Limited held on 24.12.2022 on the strength of the order dated 09.12.2022 issued by the Additional Registrar of Cooperative Societies. According to the petitioners, the acceptance of nomination of as many as 14 numbers of shareholders of the Society, some of whom have been

elected in the 15 member Board, is illegal and hence, the same had a vitiating affect on the election process itself. The petitioners are also aggrieved by the approval granted to the proceedings of the election/AGM although the order granting approval is not specifically under challenge in the present proceeding. Mr. Talukdar, learned Standing Counsel, Cooperation Department, Assam submits that the impugned order dated 09.12.2022 as well as the order granting approval to the proceedings of the AGM/election are both appellable orders under Section 111 of the Assam Cooperative Societies Act, 2007 and therefore, the writ petitioners be directed to avail alternative to them statutory remedy available under the law. Mr. Talukdar has further pointed out that since the impugned order dated 09.12.2022 had been issued by the Additional Registrar of Cooperative Societies, Assam, who had exercised the powers of Registrar of Cooperative Societies, the said order would be appellable under Section 111(3) of the Act of 2007 before the Government. However, according to Mr. Talukdar, the order granting approval to the proceedings of the AGM/election having been passed by the Assistant Registrar of Cooperative Societies, an appeal would against the said order lie before the Registrar of Cooperative Societies under Section 111(1) of the Act of 2007.

Mr. S. Banik, learned counsel for the private respondents submits that once the election is held and the proceedings have been approved, the only remedy that can be availed by the petitioners is by calling into question the elections of the individual members by filing appropriate election petitions.

Be that as it may, since the petitioners' counsel has also agreed that the issues raised in this writ petition involves several disputed questions of fact which would require a factual enquiry and since there is no dispute about the fact that

alternative statutory remedy is available to the writ petitioners under Section 111 of the Act of 2007, hence, this writ petition is being disposed of by granting liberty to the petitioners to avail appellate remedy as may be permissible under Section 111 of the Act of 2007. If an appeal is preferred before the appropriate authority within two weeks from today, the same be considered on merit and be disposed of by a speaking order within a further period of six weeks, after giving an opportunity of being heard to the contesting parties.

Writ Petition stands closed.

JUDGE

Comparing Assistant