

GAHC010267332023



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

Case No. : WP(C)/6856/2023

KULEN MEDHI AND ANR
SON OF LATE RAMESH CHANDRA MEDHI, RESIDENT OF HOUSE NO.7,
RAJGARH ROAD, BY LANE NO.2, GUWAHATI- 781003, POLICE STATION-
CHANDMARI, DISTRICT- KAMRUP METROPOLITAN, ASSAM

2: PRADIP KUMAR BARMAN
SON OF LATE KHAGENDRA NATH BARMAN
RESIDENT OF HOUSE NO. 94
MANIK NAGAR
R.G. BARUAH ROAD
GUWAHATI- 781005
POLICE STATION- DISPUR
DISTRICT- KAMRUP METROPOLITAN
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, COOPERATION
DEPARTMENT, DISPUR, GUWAHATI- 781006

2:REGISTRAR OF COOPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI- 781022

3:MD. NEZAMUDDIN TALUKDAR
CHAIRMAN (IN CHARGE) AND ONE MAN COMMITTEE
THE COOPERATIVE CITY BANK LIMITED
U.N. BEZBARUAH ROAD
SILPUKHURI
GUWAHATI- 781003

4:SHRI NILUTPAL GOHAIN

DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES
HEAD OFFICE
KHANAPARA
GUWAHATI- 781022

5:THE COOPERATIVE CITY BANK LIMITED
REPRESENTED BY ITS MANAGING DIRECTOR
U.N. BEZBARUAH ROAD
SILPUKHURI
GUWAHATI- 781003

6:THE COOPERATIVE CITY BANK EMPLOYEES ASSOCIATION
REPRESENTED JOINTLY BY ITS PRESIDENT AND GENERAL SECRETARY
U.N. BEZBARUAH ROAD
SILPUKHURI GUWAHATI- 78100

Advocate for the Petitioner : MR. DITUL DAS

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

24.11.2023

Heard Shri D. Das, learned counsel for the petitioners. Also heard Shri S.K. Talukdar, learned Standing Counsel, Cooperation Department.

2. This matter has been taken up for motion out of turn on the basis of a mentioning done this morning terming the matter to be urgent in nature.

3. The petitioners who are two in numbers claim that they are shareholders of the City Cooperative Bank Limited, Guwahati (hereinafter the Bank).

4. The grievance of the petitioners is in respect of an order dated 10.10.2023 passed by the Registrar of the Cooperative Societies, Assam by which the

Deputy Registrar of Cooperative Societies was appointed as the Inspecting Officer to conduct a detailed inspection into the overall functioning of the Bank with special emphasis on the issues raised in the petition dated 06.08.2023. The Inspecting Officer was directed to submit his report within 15 days and was to be assisted by two other officers of the Department.

5. The grievance of the petitioner is that the aforesaid inspection has been directed on the basis of a complaint lodged by certain persons who are not connected with the affairs of the Bank in question and in this connection, reliance has been made on an Office Memorandum dated 18.10.2013. It is submitted by Shri Das, the learned counsel that by the said Office Memorandum, guidelines has been laid down with regard to complaints in Ministry/ Departments wherein a stipulation is also there not to take any action on anonymous complaints.

6. Shri Talukdar, learned counsel for the Department however submits that apart from the fact that the petitioners may not have the locus to maintain the writ petition, the inspection was directed to be completed within 15 days vide the order dated 10.10.2023 and as on today, more than a month has passed and therefore for all practical purposes, there is no cause of action to be adjudicated. He further submits that the aforesaid order dated 10.10.2023 has been passed in exercise of powers under Section 88 sub Section 1 of the Assam Cooperative Act, 2007 and no issues has been raised with regard to the competence of the registrar.

7. The rival submissions have been considered.

8. The status of the petitioners *qua* the respondent Bank is that they are shareholders. However, what intrigues this Court is the cause of action, if any, which can be espoused by two shareholders with regard to inspection on the activities of the respondent Bank. Though a submission has been made that the inspection has been done on certain complaints by persons who do not have any stake in the Bank, the power under which the inspection has been done has been directed is a statutory power which can also be exercised *suo moto*.

9. This Court has further noted that while 15 days time was granted to submit the inspection report vide the impugned order dated 10.10.2023, more than a month has passed and therefore this writ petition is otherwise also without any cause of action.

10. This Court is also having grave doubts on the *bona fide* of the two petitioners to raise the issue of challenging an inspection on the overall functioning of the Bank in question which is otherwise necessary to be done on a routine manner of a financial institution.

11. In view of the above, this Court is of the opinion that no enforceable right has been violated and accordingly the writ petition is dismissed.

12. Considering the facts involved and the background, this Court also imposes a cost of Rs. 10,000/- (Rupees Ten Thousand) only from the petitioners to be paid in the name of Gauhati High Court Bar Association Welfare Fund.

JUDGE

Comparing Assistant