

GAHC010267632023



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

Case No. : CRP(IO)/421/2023

ASSAM SAHITYA SABHA AND 2 ORS.
REPRESENTED BY ITS GENERAL SECRETARY OF ASSAM SAHITYA
SABHA, DR. UPENDRAJIT SARMA, AGED ABOUT 53 YEARS, REGISTERED
OFFICE AT CHANDRA KANTA HANDIQUE BHAVAN, MITHA PUKHURI
ROAD, ATILA GAON, JORHAT-785001, HAVING ADMINISTRATIVE OFFICE
AT BHAGAWATI PRASHAD BARUAH BHAVAN, PANBAZAR, GUWAHATI-
781001

2: MIHIR KUMAR BARUAH
S/O LATE PURNA NANDA BARUAH
REPRESENTED AND CONVENER OF THE FINANCIAL ENQUIRY
COMMITTEE OF ASSAM SAHITYA SABHA
HAVING PRINCIPAL PLACE OF BUSINESS AND REGISTERED OFFICE AT
CHANDRA KANTA HANDIQUE BHAVAN
MITHA PUKHURI ROAD
ATILA GAON
JORHAT-785001
HAVING ADMINISTRATIVE OFFICE AT BHAGAWATI PRASHAD BARUAH
BHAVAN
PANBAZAR
GUWAHATI-781001

3: AJIT PRASHAD SARMA
S/O SHRI PRASANNA KUMAR SARMA
CONVENOR OF RAMDHENU SUB-COMMITTEE OF ASSAM SAHITYA
SABHA
HAVING PRINCIPAL PLACE OF BUSINESS AND REGISTERED OFFICE AT
CHANDRA KANTA HANDIQUE BHAVAN
MITHA PUKHURI ROAD
ATILA GAON
JORHAT-785001
HAVING ADMINISTRATIVE OFFICE AT BHAGAWATI PRASHAD BARUAH
BHAVAN
PANBAZAR

GUWAHATI-78100

VERSUS

MAHODAR TALUKDAR

S/O LATE BHUTNATH TALUKDAR, R/O ANIL NAGAR BYE LANE 2, HOUSE
NO. 16, RAJGARH CONNECTED, P.O.-ULUBARI, GUWAHATI-781007

Advocate for the Petitioner : MR. ANANTA RAM MEDHI

Advocate for the Respondent : MR. S P ROY (FOR CAVEATOR)

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 11.12.2023

Heard Mr. A.R. Medhi, learned counsel for the petitioners and Mr. S.P. Roy, learned counsel for the caveator- respondent.

2. By this application under Article 227 of the Constitution of India, the petitioners have assailed the legality and validity of the order dated 17.10.2023 passed by the learned Civil Judge (Senior Division) No.1, Kamrup (M), Guwahati in Misc.(J) Case No. 1048/2023 arising out of Misc. Appeal No. 37 of 2023. By the said order, the learned first appellate Court had granted ad-interim injunction by exercising jurisdiction under Order XXXIX Rules 1 and 2 read with Section 151 CPC, thereby restraining the petitioners, their men, servants, employees, workmen, agents from giving effect to the resolution no. 2 dated 02.04.2023, passed in the first Central Executive Committee Meeting 02.04.2023 at Jorhat and from giving effect to the Enquiry Committee report submitted along with letter dated 30.07.2023 by the Financial Enquiry Committee and from

giving effect to the resolution no. 6 passed in the Executive Committee on 29.07.2023 and 30.07.2023 at Goalpara and further restraining the appellants, their men, servants, employees, workmen, agents from prohibiting the respondent from discharging his duties as the Finance and Accounts Officer of the Assam Sahitya Sabha in any manner till the petitioners appear before the Court. Accordingly, the notice of show-cause was issued, fixing the date of 04.11.2023 for service of report and objection.

3. The petitioners appeared before the learned first appellate Court and filed their objection to the application for injunction on 04.11.2023. On 04.11.2023, the respondent by filing petition no. 7256/2023 prayed for extension of the ad-interim injunction order dated 17.10.2023 and the learned counsel for the petitioners had raised strong objection against the prayer for extension of interim order. The learned appellate Court, on the ground that the hearing could not be done on the said date, extended the interim injunction till the next date, fixing 11.12.2023, which is today.

4. On a query of the Court, the learned counsel for the petitioners has submitted that as this application has been filed, he was waiting in this Court for this matter to be taken up and therefore, the hearing could not commence today. It is only 2.45 PM today and there is still time for the parties to approach before the learned first appellate Court for hearing of the injunction matter.

5. In the present case in hand, it is seen that though order of injunction dated 17.10.2023 has been assailed, the extension of the injunction order by order dated 04.11.2023 is not assailed as per the prayer made in this application.

6. The grievance of the learned counsel for the petitioners is that the

respondent has already attained the age of superannuation and because of the order of injunction he is continuing his service.

7. Be that as it may, for the Court to take up the matter for hearing, it would be necessary to issue a notice to the respondent to make his submissions and in the opinion of the Court, the said procedure is likely to take a lot of time as out of turn disposal to the petitioner cannot be assured. Therefore, the Court is of the considered opinion that instead of keeping this matter pending, it would meet the interest of justice if the learned counsel for the parties appear before the learned trial court and have the matter heard today, which is the date fixed for objection hearing in connection with Misc.(J) Case No. 1048/2023.

8. Accordingly, as the matter before the learned first appellate Court is fixed today, the Court is not inclined to entertain this challenge. Accordingly, this application stands closed, without any adjudication. However, with liberty to the petitioner to approach the Court again, if so advised.

JUDGE

Comparing Assistant