

GAHC010007882014



2024:GAU-AS:11518

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

Case No. : Crl.Pet./42/2014

DR. KHIRODA KUMAR SAIKIA
GENERAL SECRETARY
ASSAM RASTRABHASA PRASAR SAMITY - A SOCIETY REGISTERED
UNDER THE SOCIETIES REGISTRATION ACT
1860 HAVING ITS OFFICE AT RUPNAGAR
P.S. BHANGAGARH
GUWAHATI-32
IN THE DIST. OF KAMRUP M.

VERSUS

THE STATE OF ASSAM AND 2 ORS

2:REGISTRAR OF FIRMS AND SOCIETIES

ASSAM
HOUSEFED COMPLEX
DISPUR
GUWAHATI-6.

3:ASSAM RASTRABHASA PRASAR SAMITY KARMI SABHA
HOUSE NO. 5
BYE LANE NO. 2
NABAGIRI ROAD
CHENIKUTHI HILL SIDE
GUWAHATI-3
REP. BY GENERAL SECRETARY.

Advocate for : MR.R THAKURIA
Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND 2 ORS

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

19.11.2024

1. Heard Mr. S Chakraborty, learned counsel for the petitioner. None appears for the respondent No. 2 and 3 complainant on call, though Mr. P Borthakur, learned Addl. PP, is present representing the respondent No. 1.
2. The present application is filed assailing order(s) dated 19.03.2013, 30.10.2013 and 30.11.2013 and the proceeding of CR Case No.2330^c/2013 under section 4(B)(2), 5(A)(3) and 22(2) of the Societies Registration Act, 1860 pending before the learned Chief Judicial Magistrate, Kamrup.
3. The background facts which are necessary for determination of the present lis are to the following effects:
 - I. The respondent No.3 approached this court by filing a writ petition being WP(C) No.45/2010, making various allegations against Assam Rastra Bhasa Prasar Samity and its functionaries of committing various irregularities. Such irregularities were denied by the Assam Rastra Bhasa Prasar Samity i.e., the present petitioner.
 - II. This court under its order dated 26.07.2012, without making any observations as regards the said allegations, asked the Registrar of Firms & Societies to look into the various allegations made and to take appropriate action in accordance with law.

III. Pursuant to such decision, the Registrar of Firms & Societies, Assam passed an order dated 08.07.2013, relevant portion of which are quoted hereinbelow:

“From the arguments of both the parties supported by documents and in consultation of the records available in the office the undersigned is satisfied that the claim of the 1st party is established and proved beyond doubt that the 2nd party by their act has definitely violated the mandatory provisions of the SR Act 1860 i.e., 1) the provisions under section 4 as the Samity has not submitted the list; 2) section 4(A)(1) as the changes are not brought to the knowledge of Registrar, regarding closer of the running printing press; 3) section 4(A)(2) no corrected and authenticated alterations are sent to Registrar in time; 4) section 4(B)(1) balance sheet and auditor’s report not submitted within thirty days since its inception from 1951 to 2003 and from 2003 to upto date irregularly at the time of renewal of registration.

The renewal of the registration is thus called and cancelled with immediate effect and the 2nd party is directed to submit back the renewal certificate within fifteen days from receipt of this order. The 2nd party is liable to be punished with a fine under section 4(B)(2) and under section 5(A)(3) of SR Act 1860 and under section 22(2) of the Society Registration Act, 1860. This final order is forwarded to the Ld. Chief Judicial Magistrate, Kamrup at Guwahati to take necessary actions as per law.

With this final order the case stands disposed.”

IV. Such decision was challenged by the Assam Rastra Bhasa Prasara Samity in WP(C) No.4753/2013 and this court under its order dated 18.04.2024, suspended the effect and operation of the order dated 08.07.2013. Subsequently, such order was extended from time to time.

- V. Prior to that, on 15.07.2013, the Registrar of Firms & Societies forwarded the order dated 08.07.2013 to the learned Chief Judicial Magistrate, Kamrup (M) at Guwahati and requested him to treat the aforesaid order dated 08.07.2013 as a complaint petition under section 21(2) of the Societies Registration Act, 1860.
- VI. On the basis of the said communication, the learned Chief Judicial Magistrate, issued summons to the present petitioner by its order dated 19.07.2013 after registering a CR case being CR Case No.2330^c/2013.
- VII. The aforesaid CR Case as well as the orders passed by the Magistrate issuing summons have been challenged in the present writ petition.
- VIII. In the meantime, this court disposed of WP(C) No.4753/2013 by an order dated 18.04.2024. The relevant portion of the determination is quoted hereinbelow:

“Having taken note of the submissions made the learned standing counsel for the Finance Department as well as the learned Govt. Advocate, who have both supported the impugned order, this Court taking note of the various requirements of the Societies Registration Act, 1860, as amended from time to time by the Assam Amendment Acts, the Court is inclined to provide that notwithstanding the order dated 08.07.2013, passed by the Registrar of Firms and Societies, Assam, the said order shall not be a bar for the petitioner society to apply for a fresh registration by filing a fresh application supported with requisite documents and also show compliance of the various requirements as provided under Sections 3B, 3C, 3D, 4A, 4B, and 5A of the Societies Registration Act, 1860, as amended vide Assam Amendment Acts from time to time. It is further provided that if the petitioner society applies for a fresh registration, the Registrar of

Firms and Societies, Assam shall pass appropriate orders thereon in accordance with law."

4. Thus from the aforesaid it is seen that this court after taking note of the provisions of law has provided the petitioners an opportunity to rectify the alleged irregularities committed by them.
5. In view of the aforesaid determination, this court is of the opinion that no fruitful purpose shall be served to allow the prosecution that has been launched on the basis of the order dated 08.07.2013, inasmuch as in effect the order dated 08.07.2013 has been modified by this court.
6. Accordingly, the present criminal petition is disposed of by setting aside the CR Case No.2330^c/2013 under sections 4(B)(2), 5(A)(3) and 22(2) of the Societies Registration Act, 1860.
7. It is needless to say that in view of the quashment of the CR Case, all subsequent order(s) passed by the learned CJM, Kamrup (M) at Guwahati shall stand set aside.

JUDGE

Comparing Assistant