

GAHC010048362024



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

Case No. : WP(C)/1370/2024

JAMUGURI COOPERATIVE MARKETING AND PROCESSING SOCIETY
LIMITED
A REGD. COOPERATIVE SOCIETY HAVING ITS REGD. OFFICE AT
SHANTIPUR, JAMUGURIHAT, DIST- SONITPUR, ASSAM, PIN-784180,
REP. BY ITS SECRETARY ,
PRANAB SAIKIA, AGED ABOUT 65 YRS,
S/O- LATE HARA KANTA SAIKIA,
R/O- VILLAGE DEKASUNDER, JAMUGURIHAT,
P.O- JAMUGURIHAT, P.S- JAMUGURI, DIST- SONITPUR, ASSAM, PIN-784180

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY, TO THE GOVT. OF ASSAM,
COOPERATION DEPARTMENT,
DISPUR, GHY-06.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES

ASSAM
KHANAPARA
GHY-22
KAMRUP (M)
ASSAM

3:THE ZONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
TEZPUR ZONE
TEZPUR
DIST- SONITPUR
ASSAM
PIN-784001

4:THE DISTRICT DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES
SONITPUR
TEZPUR
DIST- SONITPUR
ASSAM
PIN-784001

5:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES

SONITPUR
TEZPUR
DIST- SONITPUR
ASSAM
PIN-78400

Advocate for the Petitioner : MR. P P BARUAH

Advocate for the Respondent : SC, CO OP

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

11.03.2024

Heard Shri P.P. Baruah, learned counsel for the petitioner. Also heard Shri S.K. Talukdar, learned Standing Counsel, Cooperation Department.

Considering the subject matter involved and as agreed to by the parties, the instant writ petition is disposed of at the motion stage itself.

The petitioner is a registered Cooperative Society and claims that in a meeting held on 10.05.2023, the list of members of the Society were unanimously approved. Thereafter, the Board of Directors vide meeting dated 14.08.2023 had resolved to hold the Annual General Meeting on 26.09.2023 which according to the petitioner was duly held and the Minutes of the proceedings were sent for approval by the competent authority on 03.10.2023.

However, since there was no response, the minutes were deemed to be approved and accordingly the society has been functioning. It is the case of the petitioner that they were in receipt of an order dated 16.02.2024 issued by the ARCS, Tezpur whereby it has been informed that the AGM on 26.09.2023 was held with an erroneous members list.

The petitioner could also obtain a copy of a communication dated 03.02.2024 from which it appears that there were certain enquiries which the petitioner was not aware of.

Accordingly, the writ petition has been filed.

Shri S. K. Talukdar, learned Standing Counsel of the Department has however raised an objection that when there being no approval of the Minutes of the Meeting of the AGM as claimed, the question of functioning of the Board of Directors would not arise. In any case, he submits that Section 111 of the Assam Co-Operative Societies Act, 2007 provides for an appeal and the issues raised being consisting of factual disputes can be best raised before the Appellate Authority. He accordingly submits that the petitioner may be directed to file an appeal.

Shri Baruah, the learned counsel for the petitioner submits that though he is not opposed in principle to prefer an appeal under Section 111, he submits that some protection may be granted till such disposal of the appeal.

After considering the facts and circumstances, the instant writ petition is disposed of by directing the petitioner to prefer an appeal under Section 111 before the appellate authority on or before 28.03.2024. The appellate authority on receipt of such appeal may decide and dispose of the appeal expeditiously and in any event within a period of 45 days from the date of receipt.

While doing so, the petitioner and the other stakeholders are to be given an opportunity of hearing.

It is provided that till such appeal is disposed of, the petitioner would be allowed to function which would be dependent on the final outcome of the appeal.

JUDGE

Comparing Assistant