

GAHC010121792024



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

Case No. : I.A.(Civil)/1976/2024

NIBARAN KALITA
S/O- LATE TANU RAM KALITA, R/O- SANTIPUR OF NALBARI TOWN, WARD
NO. 7, P.S. AND DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND 30 ORS
NOTICE THROUGH THE CHIEF SECRETARY, ASSAM, DISPUR.

2:THE DISTRICT COMMISSIONER
NALBARI
ASSAM

3:SMT. BARNALI DEKA
DISTRICT COMMISSIONER
NALBARI.

4:SMT. CHAYANIKA THAKURIA
ADC
NALBARI.

5:KUNKUM DAS
FINANCE AND ACCOUNTS OFFICER
D.C. OFFICE
NALBARI

6:JAYANTA MALLA BARUAH
HONBLE MINISTER
PUBLIC HEALTH ENGINEERING
SKILL AND ENTREPRENURESHIP AND TOURISM
ASSAM
DISPUR.

7:MADAN MALAKAR
R/O- PALLA ROAD
P.O.
PS. AND DIST. NALBARI
PIN- 781335.

8:MANOJ KUMAR CHOUDHURY
S/O- LATE KANAK CHOUDHURY
PERMANENT RESIDENT OF NATIRAM ROAD
GOPAL BAZAR
NALBARI TOWN
DIST. NALBARI
ASSAM

9:SRI SRI NALBARI HARI MANDIR

NALBARI
REP. BY ITS PRESIDENT
SRI ASHOK KUMAR SARMA
FORMER MLA

S/O LATE LAKHI NATH SARMA

BARKURA
BARAMA ROAD

WARD NO. 8 OF NALBARI TOWN

DIST. NALBARI

10:SHRI NAGEN DEKA
GENERAL SECRETARY OF SRI SRI NALBARI HARI MANDIR

S/O LATE TARINI DEKA
R/O VILL- DIGHELI
P.O. BAR DIGHELI
P.S. NALBARI
DIST.NALBARI

11:SRI BANASHWER DAS
S/O SISHURAM DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

12:SRI SUBHASH DEBNATH

S/O LATE PRAMOD DEBNATH
NALBARI HARI MANDIR

N.T. ROAD NALBARI
DIST. NALBARI

13:SRI SUBODH DEKA
S/O LATE KRISHNAKANTA DEKA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

14:SRI KESHAB BARMAN
S/O LATE BIPIN BARMAN
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

15:SRI PRADIP CHOUDHURY
S/O LATE AMULYA CHOUDHURY
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

16:SRI MALAY MAHANTA
SO LATE SARAT MAHANTA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

17:SRI KAILASH MEDHI
S/O LATE GIRISH MEDHI
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

18:SRI ASHOK DAS
S/OLATE GIRIDHAN DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

19:SRI SHISHU HALOI
S/O LATE MUARAM HALOI
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

20:SRI HAREN HALOI
S/O LATE SARAT HALOI
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

21:SRI RATUL ROY
S/O LATE SUREN ROY
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

22:SRI GIRISH TAHBILDAR
S/O LATE POHARURAM TAHBILDAR
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

23:SRI AJAY DAS
S/O LATE ARUN KUMAR DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

24:SRI SUKUMAR SARMA
S/O LATE UPENDRANATH SARMA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

25:SRI PAKAJ BARMAN
S/O LATE HAREN BARMAN
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

26:SRI TAPESWAR DAS
S/O LATE KESAB DAS
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

27:SRI SARBESWAR KALITA
S/O LATE BHABIT KALITA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

28:SRI NARESWAR KALITA
S/O LATE SAMBARU KALITA
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

29:SRI PARESH BARMAN
S/O LATE UMESH CH. BARMAN
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

30:SRI GANESH TAMULY
S/O LATE NABIN TAMULY
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBARI

31:DIPAK BARUAH
S/O LATE ANANTA BARUAH
NALBARI HARI MANDIR
N.T. ROAD
NALBARI
DIST. NALBAR

Advocate for the Petitioner : MR D CHOUDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

27.06.2024

Heard Mr. D. Choudhury, learned counsel for the applicant. Also heard Mr. D. Nath, learned Senior Government Advocate, Assam, appearing for respondent Nos. 1 and 2 and Mr. S. Dutta, learned Senior counsel assisted by Mr. S. Dutta, learned counsel appearing for respondent Nos. 10, 12 to 19, 21 to 23, 27 and 28 and Ms. R. Baruah, learned counsel appearing for respondent Nos. 7, 8, 11, 20 and 30.

This is application for amendment of the writ petition being WP(C) No. 5013/2021. It is the specific case of the applicant that after filing the instant writ petition certain developments have occurred for which the amendment sought has been necessitated.

Mr. D. Nath and Mr. S. Dutta, learned Senior counsel and Ms. R. Baruah, learned counsels for the respondents submits that they have received no instructions to object to the amendment as sought for.

Heard the parties and perused the materials available on record.

Paragraph Nos. 8, 9, 10, 11, 12, 13, 14, 15, 17 and 35 of the I.A. is reproduced here under for ready reference.

8. That in view of the above development so far election notification dated 19.09.2023 of District Commissioner, Nalbari during pendency of this Writ Petition, the writ petition is required to be amended to bring in the record the election notification which is unconstitutional to the Constitution of Sri Sri Hari Mandir, and the following amendment be incorporated after para

25 of the writ petition as 25 (A).

"Paragraph 25 (A) That the election notification dated 19.09.2023 for the election of the Executive Committee purported to be held on 19.09.2023 in the Conference Hall of District Commissioner, Nalbari to review the progress of the selection process of the life members and to finalize the procedure of election of President, Secretary and Executive Members of Sri Sri Hari Mandir is an onslaught to the provisions of the constitution of Sri Sri Hari Mandir, Nalbari and an over stepping with the exercise of usurpation of power by the District Commissioner, Nalbari and it hits the existing provisions of the Constitution of Sri Sri Hari Mandir, Nalbari. The minutes of the meeting with the decisions taken place are in violation of the constitution of Sri Sri Hari Mandir, which is apparently illegal on the face of records. The District Commissioner, Nalbari can not amend the provisions of the Constitution of Sri Sri Hari Mandir, Nalbari by way of resolution in any meeting other than a meeting of the Executive Committee Meeting or a General Meeting of Sri Sri Hari Mandir, Nalbari held in conformity with the provisions of the Constitution of Sri Sri Hari Mandir, Nalbari. The decisions taken stating about the selection Committee which seems to be appointed earlier during pendency of the writ petition are also not in accordance to the provisions of the Constitution of Sri Sri Hari Mandir. The decision regarding submission of the list of life members by a selection committee is contrary to the provisions of the Constitution of Sri Sri Hari Mandir. The decision appears to be through Para 13 of the minutes to the meeting regarding defaulter list is illegal and not in accordance with the provisions of Constitution of Sri Sri Hari Mandir. The decision taken in Para 14 of the aforesaid minutes of the meeting regarding submission of default list by the General Secretary prior to the period of 2018 will also submit defaulter list of that period on or before 30.09.2023 and failing which General Secretary will be treated as defaulter is a decision which is beyond the power and jurisdiction of the District Commissioner, Nalbari so far interfering with the administration and election of the denomination of which sanctity is protected under Article 26 of the Constitution of India. Accordingly, the power exercised by the District Commissioner, Nalbari is absolutely illegal and it is an encroachment upon the jurisdiction of the Constitution of a religious denomination as protected under article 26 of the Constitution of India. The District Commissioner, Nalbari has no power to take a decision beyond the provisions of the constitution of Sri Sri Hari Mandir and the

same is an encroachment to the fundamental right of the religious denomination. The District Commissioner, Nalbari has no power to appoint selection committee to incorporate the name of new members of Sri Sri Hari Mandir or to make scrutiny of the life members' validity for the election. Further, the election to the members of the executive committee of Sri Sri Hari Mandir must be held in accordance with the Constitution of Sri Sri Hari Mandir and the same has been directed by order dated 04.10.2023 passed in W.P.(C) No. 5013/2023 and W.P.(C) No. 5790/2023 (Already withdrawn). It is stated that the procedures taken by the selection committee so far the exercise of review of life members list with the application of KYC data of life members is not in accordance with the provisions of the Constitution of Sri Sri Hari Mandir, Nalbari and such action has deprived of many a life members in taking part in the election process and they were debarred from their voting right, which is illegal and unconstitutional to the provision of the Constitution of Sri Sri Hari Mandir. It is further stated that the list prepared by the selection committee appointed by the District Commissioner, Nalbari so far review of the incorporation of life members in the said list is illegal apparent on the face of records as the provisions of the constitution of Sri Sri Hari Mandir, Nalbari do not provide the same, and exercise of such power is a colourable exercise of power on the part of the District Commissioner, Nalbari to encroach upon the administrative affairs and election procedures as mandated by the constitutional provision of the denomination. Accordingly, such act of the District Commissioner, Nalbari including holding of election not in conformity with the provisions of the constitution of Sri Sri Hari Mandir, Nalbari inspite of the direction made in the order dated 04.10.2023 passed in W.P.(C) No. 5012/2023 and W.P.(C) No. 5790/2023 is a contempt of the order of this Hon'ble Court and it vitiates the entire exercise of election process. It is stated that the decision reflected in Para 15 of the minutes of the meeting dated 19.09.2023 so far holding the president and secretary to be defaulter if they failed to submit the accounts and the defaulters list within 30.09.2023 an F.I.R. would be lodged against them for that purpose are absolutely illegal as the District Commissioner, Nalbari has no power to make such a decision under the provisions of the constitution of Sri Sri Hari Mandir, Nalbari and it is in violation of article 26 of the Constitution of India. Further, the election process subsequently held as per the order dated 04.10.2023 passed in W.P.(C) No. 5012/2023 and W.P.(C) No. 5790/2023 of this Hon'ble Court is absolutely in violation of the provisions

of the constitution of Sri Sri Hari Mandir, Nalbari though the order of this Hon'ble Court was for strict compliance of the provisions of the Constitution of Sri Sri Hari Mandir, Nalbari. Accordingly, the election of Sri Sri Hari Mandir, Nalbari which was held in violation of the order of this Hon'ble Court and without compliance with the provisions of the Constitution of Sri Sri Hari Mandir, Nalbari is a nullity under the laws and since the same is without the jurisdiction of the District Commissioner, Nalbari, the same cannot sustain the elected Body which was elected without the procedures established by laws and the order of this Hon'ble Court. Accordingly, the entire election process for the election of the President and Secretary as well as the members of the Executive Committee of Sri Sri Hari Mandir, Nalbari has been vitiated and the said election process and election of the office bearers of Sri Sri Hari Mandir, Nalbari is required to be held and declared null and void. The decision so far accepting the resignation of Sri Nagen Deka is also illegal during election of the office bearers of Sri Sri Hari Mandir Committee. The earlier executive committee remains in office till handing over the charge of the Committee to new elected body under the provisions of the constitution of Sri Sri Hari Mandir. In view of the above, the list of members/life members newly prepared as per directions of the District Commissioner, Nalbari is absolutely illegal and liable to be declared null and void." The District Commissioner, Nalbari indicated about appointment of subcommittee etc. but such subcommittee was not appointed in accordance with the provisions of the constitution of Sri Sri Hari Mandir, Nalbari.

A copy of the minutes of the meeting related to Sri Sri Hari Mandir, Nalbari held on 19.09.2023 in the conference hall of office District Commissioner, Nalbari is annexed hereto and marked as Annexure-4."

9. That the petitioner begs to state that after Para 25 (A) of the writ petition the following paragraph shall be incorporated in the writ petition as Para 25 (B) :-

'25 (B): that the petitioner begs to state that the public notification for election of Sri Sri Hari Mandir, Nalbari was published vide memo no.1/2023/ELECTION OF SRI SRI HARI MANDIR Dated NILL /10/2023. In the said notification No.1 it has been notified that there shall be election to the post of President/Secretary/Member of Sri Sri Hari Mandir, Nalbari. The District Commissioner, Nalbari as per the order of this Hon'ble Court

ought to have notified the election process as per the provisions of the constitution of Sri Sri Hari Mandir, Nalbari. It is stated that the clause 1 of the notification indicates about direct election to the post of President/Secretary/Member of Sri Sri Hari Mandir, Nalbari. But clause 7(A) of the constitution of Sri Sri Hari Mandir, Nalbari says that 1 President, 2 Vice President, 1 General Secretary, 3 nos. of Asstt. Secretaries and in total 7 from life members and 20 from Executive Committee Members must be elected either from life members or in general body meeting. Out of the 27 members, 21 members shall be elected from the life members. These 27 members after their election shall co-opt 4 members from life members or from the general body meeting. In the necessity there shall be co-female member. The total number of members shall be 31. Further, the clause 7(B) says that the office bearers of 27 shall be elected through procedures laid down in sub clause A of clause 7. The clause 7(C) says that as per the procedures laid down in sub clause B of clause 7, the members shall elect the president and other office bearers, meaning thereby the election should be held for election of the members of the Executive committee of Sri Sri Hari Mandir, Nalbari and after the election the Executive Committee Members elected newly should elect the President/Secretary and other office bearers of Sri Sri Hari Mandir, Nalbari. It is to be mentioned that the erstwhile general secretary shall continue in his office until the new committee is constituted and after the constitution of new committee charge should be handed over to the new committee within a period of 1 month. Further, clause 7(E) says specifically that any person desires to be member of Nalbari Hari Mandir Committee; he must have the 6 years tenure of service to Sri Sri Hari Mandir. The District Commissioner, Nalbari did not notify the election as per Clause 7 of the constitution of Sri Sri Hari Mandir which is in violation of the order of this Hon'ble Court. Apart from this the District Commissioner, Nalbari constituted sub-committee for incorporation of new members, but the incorporation of new members by sub-committee was not made by following the provisions of clause E of constitution of Sri Sri Hari Mandir, Nalbari. The subcommittee did not follow the clause 7(E) of the constitution regarding mandatory requirement of 6 years minimum tenure of service to Sri Sri Hari Mandir, Nalbari. The clause 7 requires compliance of it mandatorily and as per the procedure laid down in sub clause B of Clause 7 the members shall elect the President/Secretary and other office bearers. But the election notification says that there shall be election directly for the post of

President/Secretary/ Member for Sri Sri Hari Mandir committee. It is stated that from the acknowledgement of receiving nomination paper it is established that there was direct election for the post of President/Secretary/and other office bearers. The earlier committee's President Sri Ashok Sarma filed nomination for the post of President which was acknowledged to have received by the Returning Officer on 10.10.2023 stating that the nomination paper of Sri Ashok Sarma for election to the post of President of Sri Sri Hari Mandir committee on 10.10.2023 at 3 PM and the same was accepted. Further, it was stated that scrutiny was held for the nomination on 11.10.2023 at 11 AM in the Office of the Returning Officer. In the same way the nomination of Sri Nagen Deka for the post of secretary of Sri Sri Hari Mandir Committee was received on 10.10.2023 at 1.09 PM and which was acknowledged to have received by the Returning Officer on 10.10.2023 stating that there shall be scrutiny of nomination on 11.10.2023 in the office of the Returning Offices. It is unfortunate that after the scrutiny of nomination the list of valid name of candidates for the post of Sri Sri Hari Mandir committee, 2023 was published by the Returning Officer on 11.10.2023 and the name of candidates were shown for the post of Secretary as

follows:-

- 1. Sri Manoj Kumar Choudhury*
- 2. Sri Nagen Deka*
- 3. Sri Madan Malakar*
- 4. Sri Nalanikanta Sheel*
- 5. Sri Ashok Sarma*

It was stated that Sri Ashok Sarma's nomination was accepted by issuing acknowledgement by the Returning Officer on 10.11.2023 stating the acceptance of nomination for the post of President of Sri Sri Hari Mandir Committee but in an arbitrary manner the Returning Officer committed the fraud and contempt of the order of this Hon'ble High Court by accepting his candidature after scrutiny for the post of Secretary, and his name along with other 4 candidate appeared in serial no.5 in the list of valid nomination of candidates for the post of Secretary of Sri Sri Hari Mandir Committee, 2023. It is stated that it was done by the Returning Officer to ensure election of the Respondent. No.6, Sri Jayanta Malla Baruah as President without contest. It is stated that Sri Jayanta Malla Baruah is not a member of Sri Sri Hari Mandir, Nalbari and he is never attached to the Hari Mandir and he never served Hari Mandir as required under the constitution to be a member of Sri Sri Hart Mandir. The

provisions of constitution of Sri Sri Mari Mandir is clear that as per clause 7E, there is a mandatory requirement of 6 years minimum tenure of service to Sri Sri Hari Mandir, Nalbari but the respondent no.6 Sri Jayanta Mala Baruah never served Hari Mandir at any point of time to fulfil the requirement of constitution of Sri Sri Hari Mandir, Nalbar. Accordingly, his candidature as President of Hari Mandir Committee ought not have been accepted by District Commissioner, Nalbari and his entry in the committee as President is null and void. This dramatic arrangement in favour of the Respondent No.6 is arbitrary, illegal and in violation of the constitution of Sri Sri Hari Mandir as well as in violation of 27 the order of this Hon'ble Court and it is contempt of the order of this Hon'ble Court by the District Commissioner, Nalbari as well as the Returning Officers and the Respondent No.6, Sri Jayanta Malla Bujar Baruah."

Copy of the public notification for election of Sri Sri Hari Mandir, Nalbari was published vide memo no.1/2023/ELECTION OF SRI SRI HARI MANDIR Dated NILL /10/2023 asking for the nominations for the Post of President, Secretary and members of Sri Sri Hari Mandir, Nalbari is annexed hereto and marked as Annexure -5.

-And-

Copy of the Nomination of Sri Ashok Sarma accepting his nomination in respect of the Post of the President of Sri Sri Hari Mandir, Nalbari on 10.10.23 is annexed hereto and marked as Annexure -6.

-And-

Copy of the nomination of Sri Nagen Deka accepting for the post of Secretary of Sri Sri Hari Mandir, Nalbari on 10.10.23 is annexed hereto and marked as Annexure -7.

-And-

Copy of the List of Valid Nomination of Candidates for the Post of Secretary of Sri Sri Hari Mandir, Nalbari is annexed hereto and marked as Annexure -8.

-And-

Copy of the List of the valid nomination of Candidates for the post of election of members is annexed hereto and marked as Annexure-9."

10. That the petitioner begs to state that after Para 25 (B) of the writ petition the following paragraph shall be incorporated in the writ petition as Para 25 (C) :-

"Paragraph 25 (C) - That the petitioner begs to state that the District Commissioner, Nalbari after accepting the nomination of both Sri Ashok Sarma as well as Sri Nagen Deka tried to oust them from the process of election, and first the returning office accepting the nomination of Sri Ashok Sarma for the post of President of Sri Sri Hari Mandir, Nalbari his nomination was shown to be found valid for the post of Secretary, and subsequently, one Corrigendum was published on 14.04.2023 whereby Sri Ashok Sarma and Sri Nagen Deka were declared as defaulter and it was stated that the name of both candidates were included in the list of contestant out of printing mistake. Further, by the same Corrigendum at the foot of its has been stated that Sri Jayanta Malla Barua has been shown as the lone candidate for the post of President of Sri Sri Hari Mandir whose nomination has been found valid.

Copy of the said Corrigendum dated 14.10.2023 issued by the Returning Officer is annexed hereto and marked as Annexure - 10

11. That the petitioner states that the petitioner was in dark about the formal declaration of the result of the candidates for the posts of President, Secretary and the members of Sri Sri Hari Mandir, Nalbari for the election of 2023 held by the District Commissioner, Nalbari. He tried to get the information about it by approaching the office of the District Commissioner, Nalbari, but the office was buying time for giving the copy of the result of the candidates and ultimately he had to file application under the Right to Information Act, 2005 and ultimately these were furnished by their letter dated 27.03.2024. Hence, in the situation to bring these documents to be part of records of the writ petition as subsequent events during pendency of the writ petition, the same are required to be incorporated by way of amendment of the writ petition. Accordingly, the following paragraph be incorporated as paragraph 25(D) in the writ

petition -

"25(D)- That the petitioner, after the election could not get the formal declaration of the election result of the

office bearers and members of Sri Sri Hari Mandir, Nalbari for the election of 2023, and he approached on many occasions but the office of the District Commissioner, Nalbari failed to provide the same. Ultimately he had to apply for the same on 25.02.2024 and the Additional District Commissioner, Nalbari vide letter bearing Memo No. PER.27/2015/2023-est-NLB/4249-R Dated 27.03.2024 furnished the formal copy of the election result. Accordingly, from the records furnished it has been found that the Returning Officer declared result of the election of Sri Sri Hari Mandir, Nalbari on 16.10.2023 for the candidates who have been elected uncontest. The uncontest elected candidates were Sri Jayanta Malla Baruah as President, Sri Nalini Kanta Sheel as Secretary, Sri Nira Baruah as member, reserved for woman, Sri Namita Bhattacharya, reserved for woman. The List of members elected on contest included 23 members and they are as follows -

Members elected for the Committee of SRi Sri Hari Mandir, Nalbari for the 2023 election:-

- 1. Manoj Choudhury*
- 2. Pankaj Barman*
- 3. Haren Haloi*
- 4. John Kumar Barman*
- 5. Hementa Kumar Das*
- 6. Tapeswar Des*
- 7. Sarbeswar kaltya*
- B. Malay Mahanta*
- 9. Ganesh Tamuli*
- 10. Baneswar Das*
- 11. Dwipan Kalta*

- 12. Paresh Chandras Barman*
- 13. Mohan Halor*
- 14. Mintu Tamull*
- 15. Akshay Deka*
- 16. Anup Das*
- 17. Dhiraj Das*

18. Diljit Barman
19. Keshab Barman
20. Sukumar Sarma
21. Diganta Lochan Sarma
22. Ratul Roy
23. Drubajyoti Sarma

Copy of the List of uncontested elected candidates for different posts and the List of elected members of Sri Sri Hari Mandir, Nalbari are annexed hereto and marked as Annexure- 11 & 12 respectively."

12. That the petitioner begs to state that the election as well as the aforesaid office bearers and the members of the committee of Sri Sri Hari Mandir, Nalbari have been challenged through amendment of the writ petition, hence they are necessary parties and they are required to be impleaded as respondents. It is stated that some persons among the elected office bearers and the member of Sri Sri Hari Mandir, Nalbari are already as parties to the writ petition, so the name of the following persons be incorporated in the writ petition as party respondents, and they are required to be impleaded as Respondents No. 32 to 45 and the following persons be impleaded as follows - "Respondent No.

32. Sri Nalini Kanta Sheel, Son of Late Mahendra Sheel, Resident of Village- Tilana, P.O.- Mugkuchi, District- Nalbari.

33. Sri Nira Baruah, wife of Late Ramen Baruah, Resident of Ward No. 4, Dol Gobindapur, Nalbari Town, P.O. -Milanpur, District- Nalbari

34. Sri Namita Bhattacharjya, W/o- Lt. Bibekananda Bhattacharjya, R/o- ward no.11 (Hajo Road), Nalbari Town, P.O.- Nalbari, Dist.- Nalbari

35. Sri John Kumar Barman, S/O- Sri Narayan Chandra Barman, Vill- Doulgobindapur, Nalbari Town, Ward No.4, P.O.- Milanpur,

44. Sri Diganta Lochan Sarma, S/O- Lt. Ramosh Chandra Sarma, Vill- Bidyapur, Nalbari Town, Ward No.2, P.O.- Nalbari, District - Nalbari

45. Sri Dhruba Jyoti Sarma, S/O- Lt. Jitendra Nath Sarma, Vill-Nalbari Town, Shantipur, College road, (Jitendra Path) Ward No.7, P.O.- Nalbari, District Nalbari"

13. That the petitioner begs to state that after the election and declaration of the candidates elected to form the executive committee of Hari Mandir, the elected body under the presidentship of Respondent No.6 held Ras Puja for the year 2023. This Committee made lot of changes to the existing setup within the premises of Sri Sri Hari Mandir, Nalbari by demolishing the gates at entry point, the shops let out by the Sri Sri Hari Mandir by the N.T. Road, the numbers of building within the campus of Sri Sri Hari Mandir. In such situation these activities which are illegal and unconstitutional are required to be incorporation in the Writ Petition by way of amendment, accordingly the following paragraph be incorporated as 25 E after the para of 25 D.

'25 E' That the petitioner begs to state that the Returning Officer acted illegally in respect of election of the members and direct election of the President and Secretary de hors the provisions of the Constitution of Sri

Sri Hari Mandir, Nalbari. The Committee declared elected by Returning Officer is illegal, unconstitutional to manage the state of affairs of Sri Sri Hari Mandir including maintaining of accounts etc by receiving and spending money. To the knowledge of the petitioner this illegal Committee spent lavishly the income of Sri Sri Hari Mandir and has failed to give the accounts till date. The President and Secretary of Sri Sri Hari Mandir who were directly elected illegally had taken decision without holding any meeting of so called Executive Committee and unilaterally took decision to demolish the entry gates, to demolish the shades let-out for shop by the NT Road, Nalbari and this illegal Committee also demolished old Shiv Mandir, Kali Mandir, Hanuman Mandir etc without the decision of either executive Committee or General Body meeting. Further, there was a Marriage Hall for ceremonizing the marriage party for the poor people and this has been closed permanently in prejudice to the poor people of Nalbari. The solar light within the campus of Sri Sri Hari Mandir has also been dismantled without any decision."

14. In view of the incorporation of the above subsequent events by way of amendment to the Writ Petition the prayer portion of the Writ Petition is also required to be amended as indicated as follows-

In the prayer portion at 15th line after the word 'taken over' (At page 37 of the Writ Petition) the following may be incorporated-

'And as to why writ in the nature of certiorari should not be issued to set aside and quash the decision taken at the so called meeting held on 19.09.2023 at Conference Hall Office of District Commissioner, Nalbari Vide Memo No. NNZ-66/2023/80-A dated 19.09.2023 issued by the District Commissioner, Nalbari (Annexure-4), and all the so called amendment of provisions of the Constitution of Sri Sri Hari Mandir, the election process held vide public notification of the election of Sri Sri Hari Mandir Committee for 2023-24 issued vide memo no. 1/2023ELECTION OF SRI SRI HARI MANDIR dated NIL/10/2023 (Annexure-5) and the corrigendum publishing the decision to make defaulter the Ex- President and Secretary and declaring only the name of Respondent No. 6 as valid candidate for the post of President of Sri Sri Hari Mandir Committee 2023 and the list of candidates declared uncontest of Sri Sri Hari Mandir Committee Election 2023 in respect of post of President Sri Jyanata Malla Baruah (Respondent No.6), Secretary Sri Nalini Kanta Sheel (Respondent No.32), Member (Reserved for women), Sri Nira Baruah (Respondent No.33) and Sri Namita Bhattacharjya (Respondent No.34) and the election of the Executive members who are declared elected on 30.10.2023 by the Returning Officer,"

After the last line starting from 'and' at page 37 of the Writ Petition the following lines be incorporated in the prayer portion.

"As to why the entire election process held by the District Commissioner, Nalbari and declaration of the President, Secretary and members being elected for the Executive Committee should not be declared illegal and unconstitutional and null and void and as to why the demolition of the buildings for the Mandirs stated in the body of the Writ Petition should not be declared illegal and the President, Secretary and Executive Committeemembers of the so called elected committee should not be held responsible with civil and criminal liability and"

15. That in view of the order being passed by the Hon'ble Court on 04.10.2023 for holding election as per schedule as notified by the notification dated 19.09.2023 and which elections shall be held adhering to the provisions to Constitutions of Sri Sri Hari Mandir and the results thereof be declared as per the schedule, but the results of the

AGM/election would be subjected to further orders that may be passed in the writ petition, the interim prayer made in the writ petition is required to be amended and after the words "during pendency of the writ petition" "The bearing Memo No NNZ-66/2023/5-A dated 22.07.2023.... to the rest till the words denomination is required to be deleted and the following interim prayer is required to be incorporated after the words during pendency of the Writ Petition."

"The New Committee elected under presidentship of Respondent 6 and Secretary, the Respondent 32 and the members of the Executive Committee, Respondent 32 to 45 are required to be directed not to interfere into the present infrastructure with the premises of Sri Sri Hari Mandir and to stop all further construction till decision of the writ petition.""

Perusal of the aforesaid averments indicates that the same is required to be brought into record to brought into record the subsequent developments during the pendency of the writ petition for effective adjudication of the writ petition.

Accordingly, amendment as sought for is allowed.

Let an amended writ petition be furnished to the Registry within a period of 3(three) weeks from today.

Accordingly, the Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant