

GAHC010179932024



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

**Case No. : WP(C)/4559/2024**

BIRBAHU BASUMAATARY AND 4 ORS  
S/O- BANGSHI BASUMATARY,  
R/O- BOROBHATAMARI , ARMANG ROAD,  
P.O, P.S, DIST- KOKRAJHAR, PIN-783370, ASSAM

2: DIBYA BARUAH  
S/O- LATE TANKESWAR BARUAH

R/O- TIPOMIA HABI GAON

P.O- AND P.S- BORHOLLA

DIST- JORHAT  
PIN-785631  
ASSAM

3: KUSHAL KUMAR DUTTA  
S/O- SAIENDRA NATH DUTTA

R/O- NAICHUK  
KALIANI PATHAR JORHAT

P.S AND DIST- JORHAT  
PIN-785108  
ASSAM

4: ABUL FAZAL  
S/O- KAPIL UDDIN SHEIKH

R/O- JHASKAL PART II

P.O- JHASKAL

P.S- AGOMONI

DIST- DHUBRI  
PIN-783335  
ASSAM

5: BABULAL BARMAN  
S/O- BALO RAM BARMAN

R/O- BHOGPUR

P.O- BHALAGURI

P.S- PATACHARKUCHI

DIST- BARPETA  
PIN-781318  
ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.  
OF ASSAM, COOPERATION DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE DEPUTY SECRETARY  
TO THE GOVT. OF ASSAM  
COOPERATION DEPARTMENT  
DISPUR  
GUWAHATI-781006

3:THE REGISTRAR OF CO-OPERATIVE SOCIETIES  
ASSAM  
KHANAPARA  
GUWAHATI-781022

4:THE ADDITIONAL REGISTRAR OF COOPERATIVE SOCIETIES  
ASSAM  
KHANAPARA  
GUWAHATI-781022

5:THE ZONAL JOINT REGISTRAR OF COOPERATIVE SOCIETIES  
  
GUWAHATI ZONE  
BHANGAGARH

GUWAHATI-781005  
ASSAM

6:ZONAL JOINT REGISTRAR OF COOPERATIVE SOCIETIES

JORHAT ZONE  
JORHAT  
ASSAM  
PIN-785001

7:THE ONE MAN COMMITTEE OF ASOM BAHUMUKHI SAMABAI SAMITI  
LTD  
JORHAT  
ASSAM  
PIN-78500

**For the petitioner (s) : Mr. A. Sarma, Advocate**

For the respondent (s) : Mr. S. K.Talukdar, SC, CO OP

BEFORE  
**HON'BLE MR. JUSTICE DEVASHIS BARUAH**  
O R D E R

16.09.2024

Heard Mr. A. Sarma, the learned counsel appearing on behalf of the petitioners and Mr. S. K. Talukdar, the learned counsel appearing on behalf of the respondent Nos.1 to 7.

2. The petitioners herein have approached this Court by filing the instant writ petition apprehending that in the upcoming elections to be held for the Board of Directors of the Asom Bahumukhi Samabai Samiti Ltd. (hereinafter referred to as 'the Cooperative Society'), the petitioners nominations may be rejected, and as such, the petitioners have sought for direction upon the respondent authorities to accept the nomination papers of the petitioners as well as also for a direction that this Court should allow the petitioners to contest in the upcoming elections to constitute the New Board of Directors of the Cooperative Society.

3. This Court has enquired with Mr. A. Sarma, the learned counsel appearing on behalf of the petitioners as to whether any notification for holding the elections has been issued as is required under the provisions of the Assam Co-operative Societies Act, 2007 (for short, 'the Act of 2007'). The learned counsel for the petitioners submitted that as of now there is no such notification issued. He however, submitted that there is a communication issued by the respondent No.6 that the elections of the Co-operative Society would be held on or before 30.09.2024. The learned counsel for the petitioners submitted that the petitioners strongly apprehend that the petitioners nominations would be cancelled in terms with Section 40 (4) (a) of the Act of 2007 on the ground that not conducting or wrongly conducting the Annual General Meeting under Section 39 of the Act of 2007. In that regard, the learned counsel for the petitioners had referred to the judgment of the Division Bench of this Court in the case of ***Jahurul Islam Laskar & Others vs. Baktar Hussain & Others***, reported in **2022 (4) GLR 61** wherein the Division Bench of this Court had observed that the embargo under Section 40 (4) (a) of the Act of 2007 was not attracted in the facts of that case. He therefore submitted that the facts in the instant case are similarly situated.

4. I have also heard Mr. S. K. Talukdar, the learned counsel appearing on behalf of the respondents who submitted that the instant writ petition is a premature writ petition. He submitted that the petitioners have expressed their apprehension which are based on certain facts which needs to be looked into and the same cannot be looked into at this stage without the notification for the AGM/Election being issued and the petitioners thereupon submitting the nominations and the same being

cancelled. He further submitted that if the petitioners duly want to press the judgment of the Division Bench of this Court in the case of ***Jahurul Islam Laskar*** (supra), then the same very aspect can be placed before the Returning Officer, or if further aggrieved, before the Election Tribunal in terms with Section 27 of the Assam Co-operative Society's Elections Rules, 2019 (for short, 'the Rules of 2019').

5. This Court has heard the learned counsels appearing on behalf of parties and given anxious consideration to their respective submissions. This Court upon perusal of the materials on record is of the opinion that the instant writ petition is premature at this stage in as much as till date, there is no notice issued for holding the elections. Apart from that, the cause of action for the petitioners at best would only arise, if their nominations are cancelled in terms with Section 40 (4) (a) of the Act of 2007. In addition to that, if the nominations are cancelled, then the petitioners have an alternative and efficacious remedy in terms with Rule 27 of the Rules of 2019. Under such circumstances, this Court is not inclined to exercise its writ jurisdiction in the instant writ petition.

6. Accordingly, the instant writ petition stands dismissed.

**JUDGE**

**Comparing Assistant**