

GAHC010180342024



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

Case No. : WP(C)/4546/2024

PRADIP KUMAR ROY AND 3 ORS.
S/O- LATE PHALICK CH. RAY, VILL.- KHEKSIALY, P.O. DEBOTTAR
HASDAHA, PS GOLAKGANJ, DIST. DHUBRI, ASSAM, PIN- 783334.

2: DEBABRATA RAY
S/O- LATE BIRENDRA NATH RAY
VILL.- KHEKSIALY
P.O. DEBOTTAR HASDAHA
PS GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN- 783334.

3: RANJIT KUMAR SEAL
S/O- LATE ANIL CHANDRA SEAL
VILL.- DEBOTTARHASDAHA PT-V
P.O. DEBOTTAR HASDAHA
PS GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN- 783334.

4: SOBAHAN ALI SHEIKH
S/O- LATE BHUDU ALI SHEIKH
VILL.- DEBOTTAR HASDAHA
P.O. DEBOTTAR HASDAHA
PS GOLAKGANJ
DIST. DHUBRI
ASSAM
PIN- 78333

VERSUS

THE STATE OF ASSAM AND 5 ORS

REPRESENTED BY THE COMMISSIONER AND SECRETARY, GOVT. OF
ASSAM, COOPERATION DEPARTMENT, DISPUR, GHY-6.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GHY-22.

3:THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
DHUBRI
ASSAM

4:THE DHEPDHEPI HS STAFF COOPERATIVE THRIFT AND CREDIT
SOCIETY LTD.

REP. BY THE SECRETARY
P.O. DEBOTTOR HASDOHA
PS. GOLAKGANJ
DIST.DHUBRI
ASSAM
PIN- 783334.

5:THE EXECUTIVE OFFICER
DHEPDHEPI HS S STAFF COOPERATIVE THRIFT AND CREDIT SOCIETY
LTD.
P.O.DEBOTTOR HASDAHA
P.S. GOLOKGANJ
DIST. DHUBRI
ASSAM
PIN- 783334

Advocate for the petitioner(s): Mr. MU Mondal

Advocate for the respondent(s): Mr. RB Goswami

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

06.09.2024

Heard Mr. MU Mondal, the learned counsel appearing on behalf of the petitioners. Mr. RB Goswami, the learned counsel appears on behalf of the respondent Nos.1 to 4.

2. The instant writ petition is taken up for disposal at the motion stage itself, taking into account the dispute involved.

3. The petitioners herein are members of Dhepdhepi HSS Staff Cooperative Thrift & Credit Society Ltd., (for short, 'the Cooperative Society') which is a registered society under the Assam Cooperative Societies Act, 2007 (for short, the Act of 2007). On 08.08.2024, the Executive Officer and the Secretary of the Cooperative Societies, in question, had issued a notice for holding the AGM of the Society on 31.08.2024. The said notice as per the petitioners was placed only on 28.08.2024. In the meantime, the petitioners had filed an FIR before the Superintendent of Police, Dhubri stating that the Ex-Chairman and Secretary of the said Society had misappropriated an amount of Rs.13,40,000/- from the fund of the Society on various dates as revealed from an audit report dated 25.02.2024. However, no action was taken as stated by the petitioners. The petitioners further on 14.08.2024 had submitted a representation to the Principal of Dhepdhepi HS School to furnish the internal audit report for the last 5(five) years, balance sheet and the list of valid members of the Cooperative Society, in question, but no action was taken. Further to that, the petitioners had also submitted a representation on 28.08.2024 to the respondent No.2 praying for holding of the AGM after publishing the up-to-date audit report, balance sheet and voters list of the said society by cancelling the notice dated 08.08.2024, but no action was taken. Subsequent thereto, on 30.08.2024, the petitioners had submitted a representation to the respondent No.2 to cancel the

notice dated 08.08.2024 and also prayed for holding the AGM/Election by recasting the audit report, cash account, balance sheet etc., but no action had been taken on the said representations. Under such circumstances, the petitioners have approached this Court.

4. The primary grievance of the petitioners as could be seen that the AGM/Elections are going to be held on 07.09.2024 and, as such, if the said AGM/Election is being held without a proper audit report/balance sheet etc., it would affect the rights of the petitioners, who are shareholders of the Cooperative Society. In other words, the petitioners by way of the instant writ petition seek to stall the AGM/Election which is to be held on 07.09.2024.

5. Heard the learned counsel appearing on behalf of the petitioners as well as the learned counsel appearing on behalf of the respondent Cooperation Department.

6. From a perusal of Section 30 of the Act of 2007, it is seen as to what are the matters which are to be dealt with in the AGM. The matters which would be dealt with, amongst others, included, the consideration of the long term plan and budget; consideration of the annual operational plan and budget for the current financial year; consideration of the annual report of activities for the previous financial year including provisional financial statements of accounts if not audited; consideration of the audited financial statements of accounts, and the auditor's report relating to the previous financial year or years; consideration of the report on deviations, if any, from the approved budget relating to the previous financial year; disposal of surplus, if any, of previous financial year; management of deficit, if any, of previous financial year etc.

7. The petitioners herein apprehends that incorrect balance sheets, audited

statements as well as cash account would be placed before the AGM to be held tomorrow i.e.07.09.2024 and as such, have approached this Court.

8. However, this Court taking into account the Act of 2007 which having been enacted to facilitate the voluntary formation and democratic functioning of the Cooperative Societies is of the opinion that if the petitioners are aggrieved with any audited statement, balance sheet, cash books etc., the same can very well be raised in the AGM.

9. The petitioners also have the avenue to approach the Registrar of Cooperative Societies after the AGM/Election stating their grievances as regards the audited accounts, balance sheets, cash accounts etc., if so approved in the AGM, *inasmuch as*, the Registrar of Cooperative Societies has the jurisdiction either to approve or disapprove in terms with Section 45 of the Act of 2007. Under such circumstances, this Court finds no merit in the instant case for exercising the jurisdiction under Article 226 of the Constitution, for which, the writ petition fails.

10. Before parting, this Court observes that the dismissal of the writ petition shall not preclude the petitioners to avail remedies in accordance with the Act of 2007 and the Rules framed thereunder.

JUDGE

Comparing Assistant