

GAHC010250842024



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

Case No. : WP(C)/6265/2024

MOMIN HUSSAIN AND 10 ORS
SON OF ISMAIL HUSSAIN,
RESIDENT OF VILL.- KALAPANI,
P.O.- KALAPANI,
P.S.- MANKACHAR,
DIST.-SOUTH SALMARA MANKACHAR,
ASSAM.

2: SAHAR ALI SIKDAR
S/O- GAFUR ALI

RESIDENT OF VILL.- KALAPANI

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

3: ABDUL RAHMAN
S/O- MOKAT ALI

RESIDENT OF VILL.- KALAPANI

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

4: MONOWARA KHATUN
W/O- RAJIUL ISLAM

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

5: IDRISH ALI SHAH
S/O- YUSUF UDDIN SHAH

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

6: CHANDRA BHANU
W/O- FARIZUL HOQUE

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

7: HASEN ALI
S/O- TAIMUDDIN SK.

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

8: JEL HOQUE
S/O- LALCHAND SK.

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

9: MOKBUL HOSSEN
S/O- AKBAR ALI

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

10: HARAN ALI
S/O- TAIMUDDIN

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM.

11: KALIMUDDIN SK.
S/O- ASMAT ALI

RESIDENT OF VILL.- LAKHISHORIF

P.O.- KALAPANI

P.S.- MANKACHAR

DIST.-SOUTH SALMARA MANKACHAR

ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
COOPERATION DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE REGISTRAR OF COOPERATIVE SOCIETIES
ASSAM
KHANAPARA
GHY- 781022.

3:THE ADDITIONAL REGISTRAR OF COOPERATIVE SOCIETIES
CUM CHD
BTC
KOKRAJHAR
ASSAM
PIN- 783370.

4:THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES
SOUTH SALMARA MANKACHAR
AT HATSINGIMARI
ASSAM

DIST.- SOUTH SALMARA MANKACHAR

PIN- 783135.

5:RUPAM BORA
JUNIOR INSPECTOR/ AUDITOR IN THE ASSISTANT REGISTRAR OF
COOPERATIVE SOCIETIES

SOUTH SALMARA MANKACHAR

HATSINGIMARI
ASSAM

P.O.- HATSINGIMARI

DIST.- SOUTH SALMARA MANKACHAR

PIN- 783135.

6:KALAPANI SAMABAI SAMITY LTD.

KALAPANI

REPRESENTED BY ITS SECRETARY

P.O.- KALAPANI

DIST.- SOUTH SALMARA MANKACHAR

PIN- 783135

Advocate for the Petitioner : MR. M KHAN, MS J AKTAR,MR A K DAS

Advocate for the Respondent : SC, CO OP, SC, BTC,MS. H BARUAH,MR R B GOSWAMI

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

16.12.2024

Heard Mr. M. Khan, learned counsel for the petitioners. Also heard Mr. R. B. Goswami, learned Standing Counsel appears for the Co-operative Society and Mr. B. Choudhury, learned Standing Counsel for the BTC.

This writ petition is directed by the petitioner being aggrieved that because of the failure of the then Directors of Kalapani Sambai Samity Ltd., a co-operative society registered under Assam Co-operative Societies Act, 2007, to hold the AGM/election as per the mandate of Section 39 of the Act, 2007, the society came to be dissolved and an one man ad-hoc committee was constituted by order dated 21.06.2024 to conduct the AGM/elections. The said one man ad-hoc committee had however, failed to hold the said AGM/election within 90 days and another one man ad-hoc committee was constituted by order dated

21.09.2024. The said one man ad-hoc committee also failed to hold the AGM/election. Being aggrieved the present writ petition has been filed praying for directions to the Registrar of Co-operative Society and the other concerned Officials to hold the AGM of the Society at the earliest.

The learned Standing Counsel appearing for the BTC had on the earlier occasion submitted a copy of the order dated 22.11.2024, whereby the third one man ad-hoc committee was appointed. Sri. Syed Samim Ahmed, Sr. Inspector/Auditor of Co-operative Society South Salmara, Mankachar, Hatsingimari was appointed as the Executive Officer to manage the affairs of the society and to perform the functions of Board of Directors (BOD) of the said society till a new managing committee is elected as per the Assam Co-operative Societies Committee, Rules and Bye-Laws. The Officer appointed is directed to hold the AGM/election within a period 90 days from the date of issue of the order.

Mr. D. Choudhury, learned Standing Counsel for the BTC submits before the Court that in terms of the order dated 22.11.2024 the Executive Officer appointed will take steps to hold the AGM/election as required within a period of 90 days.

Mr. M. Khan, learned counsel for the petitioners submits that their only grievance is that the election of the co-operative society is not being conducted in spite of the one man ad-hoc committee being appointed by the BTC authorities. If the Executive Officer is appointed by the order dated 22.11.2024 to conduct the election then they have no grievance. In view of the matter, as per the order dated 22.11.2024 issued by the I/c Additional Registrar of the Co-operative Societies-cum-C.H.D. B.T.C. Kokrajhar, Sri Syed Samim Ahmed, Senior Inspector of Co-operative Societies, South Salmara, Hatsingimari, was appointed

as the Executive Officer based on the recommendation of the Assistant Registrar of the Co-operative Societies, South Salmara, Mankachar, Hatsingimari. The Executive Officer is to manage the affairs of the society and perform the function of Board of Director (BOD) of the said society till a new managing committee is elected or form under the Co-operative Societies Act, Rules and Bye-Laws. The Executive Officer so appointed is also required to hold the AGM/election of the society with a period of 90 days from the date of issuance of this order.

Since the learned Standing Counsel for the BTC on instructions submits that the Executive Officer has already been appointed to Manage the affairs of the Co-operative Society and to conduct the elections, and also taking into account the grievance of the writ petitioner that the election required to be held under the Co-operative Societies Act, 2007 must be conducted as per provisions of law, this Court is of the view that this writ petition can be closed with specific directions to the respondents more particularly the Executive Officer appointed namely Sri. Syed Samim Ahmed, the Additional Registrar of Co-operative Societies respondent No. 3 who issued the order dated 22.11.2024, as well as the Registrar of Societies, Respondent No. 2, to ensure that the election of the Kalapani Samabai Samity Ltd. is conducted within the 90-day period specified in the order dated 22.11.2024 issued by the Additional Registrar of Co-operative Societies-cum-C.H.D. B.T.C, Kokrajhar. The Executive Officer appointed will therefore, take necessary steps to ensure that the election are held and conducted within a period of specified in the said order dated 22.11.2024.

With the above observations, the writ petition stands closed and disposed of.

Copy of this order shall be served by the writ petitioner on the

respondent No.2 and 3 as well as on the Executive Officer.

JUDGE

Comparing Assistant