

GAHC010257322018



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

Case No. : WP(C)/8007/2018

AZIBUR RAHMAN
S/O- MD. MASTUFA HUSSAIN, R/O- VILL- RAMPUR SATRA, NAGAON,
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
CO OPERATION DEPTT, DISPUR, GUWAHATI- 6

2:THE REGISTRAR
COOPERATIVE SOCIETIES
GOVT OF ASSAM
KHANAPARA
GUWAHATI- 22

3:THE ZONAL JOINT REGISTRAR OF COOPERATIVE SOCIETIES
GUWAHATI ZONE
KAMRUP
ASSAM

4:THE ASSISTANT REGISTRAR
OF COOPERATIVE SOCIETIES
NAGAON
ASSAM

5:ANUPAM HAZARIKA
SENIOR INSPECTOR/ AUDITOR OF COOPERATIVE SOCIETIES
NAGAON CUM CHAIRMAN
BATADRAVA SAMABAI SAMITTEE LIMITE

Advocate for the Petitioner : MR N DUTTA, MR. B TALUKDAR,MR. M DAS,MS. J

HAZARIKA

Advocate for the Respondent : SC, CO OP,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

Date : 31.07.2024

Heard Mr. M. Das, learned counsel for the petitioner. Also heard Mr. S. K. Talukdar, learned Standing Counsel appearing for the Co-operation Department representing the respondents no. 1 to 4. None has entered appearance on behalf of the respondent no. 5.

2. The challenge made in the present proceeding is to an order dated 09.11.2018, issued by the Registrar, Co-operative Societies, debarring the petitioner herein from functioning as the Secretary of the Batadraba Satra Samabai Samitee Ltd. The petitioner has also presented a challenge to an order dated 12.11.2018, whereby directions were issued by the Assistant Registrar, Co-operative Societies, Nagaon, in pursuance to the said order dated 09.11.2018, to take immediate steps for making alternative arrangements for holding the post of Secretary of the Co-operative Societies upon debarment of the petitioner from functioning in the said capacity.

3. The petitioner contends that he was appointed as the Secretary of the Batadraba Satra Samabai Samitee Ltd., (hereinafter referred to as

'the society') by the Board of the said Society on 07.06.2013 and he was so functioning in the said capacity. Subsequently, certain allegations came to be leveled against the petitioner, for which, criminal proceeding came to be so instituted against him and the petitioner had approached this Court, seeking bail. Accordingly, this Court had enlarged the petitioner on bail.

4. The respondent authorities, more particularly, the Registrar of the Co-operative Societies, Assam vide an order dated 09.11.2018, noticing the criminal case as instituted against the petitioner and nature of allegation as leveled against the petitioner, proceeded to exercise his power under Section 29 (4) of the Assam Co-operative Societies Act, 2004 and the petitioner herein was debarred from discharging his duties as Secretary of the said Society.

5. The said order was followed by an communication dated 12.11.2018, by which, the Assistant Registrar of Co-operative Societies, Nagaon had required the Society to make alternative arrangements for holding the post of Secretary of the said Society on account of the debarment of the petitioner herein.

6. The said writ petition, on being instituted and moved before this Court, this Court vide order dated 20.11.2018, while being pleased to issue notice in the matter, upon consideration of the issues arising in the matter was pleased to issue an interim direction to the effect that the

impugned order dated 09.11.2018 and the consequential step taken thereon, vide the communication dated 12.11.2018 to remain stayed.

7. It is seen thereafter, neither the Society nor the Co-operation Department had moved before this Court, praying for vacation of the said order nor affidavit has been filed in this matter by the respondents herein.

8. In view of the above position, without going into the issue as to whether the order dated 09.11.2018 was so passed in proper exercise of jurisdiction by the authority so issuing it, the said orders, in view of the lapse of time occasioning in the matter and there being no further allegation brought on record against the petitioner, after the passing of the interim directions, the order dated 09.11.2018 as well as the communication dated 12.11.2018 stands set aside.

9. Having interfered with the order dated 09.11.2018 and 12.11.2018; it is provided that the Board of Directors of the Society, on consideration of the matter, including the allegations leading to the passing of the order dated 09.11.2018; if any misconduct is so evident against the petitioner, the Board of Directors of the Society would be at liberty to proceed against the petitioner in a manner known to law.

10. In the event of institution of any such proceeding against the

petitioner, the petitioner herein shall be given full liberty to place his defence in the matter.

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

JUDGE

Comparing Assistant