GAHC010161922020

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

Case No. : WP(C)/4875/2020

M/S BILASHIPARA MAHAKUMA FISHERY CO OP SOCIETY LTD AND ANR
VILL- AKLAPARA, P.O. HATIPOTA, P.S. CHAPAR, BILASIPARA SUB DIVISION, PIN- 783348, DIST.- DHUBRI, ASSAM

2: PRASANNA BARMAN
CHAIRMAN
BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY LTD VILL- CHANDARDINGA
P.O. HATIPOTA
PIN- 783348
DIST.- DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM AND 10 ORS
BEING REP. BY THE COMM. AND SECY. OF GOVT. OF ASSAM, COOPERATION DEPTT., DISPUR, GHY-06

2:THE REGISTRAR
OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GHY-22
DIST.- KAMRUP (M)
ASSAM

3:THE ADDL. REGISTRAR OF CO-OPERATIVE SOCIETIES CUM C.H.D.B.T.C.
DIST.- KOKRAJHAR
ASSAM

4:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES
DHUBRI
DIST.- DHUBRI

ASSAM
PIN- 783331

5:THE SENIOR INSPECTOR/AUDITOR OF COOPERATIVE SOCIETIES
SRI SYED SHAMIM AHMED
DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783331

6:ANKUR DAS
FORMER SECY. OF M/S BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY
BILASHIPARA
R/O- VILL- DIMTOLA
WARD NO. 3 (NEAR SUMU LODGE)
DIST.- DHUBRI
PIN- 783348
ASSAM

7:SUKCHARAN BARMAN
S/O- GYUARAM BARMAN
BOARD MEMBER
BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY
R/O- VILL- CHANDORDINGA
P.O. HATIPOTA
DIST.- DHUBRI
PIN- 783348

8:PRAN KRISHNA NAMA DAS
S/O- MADHUSUDAN NAMA DAS
BOARD MEMBER
BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY
R/O- VILL- GOBINDAPUR
P.O. CHAPPAR
DIST.- DHUBRI
ASSAM

9:HIMANGHSU DAS
S/O- LT. SOLAHARI DAS
BOARD MEMBER
BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY
R/O- VILL- KADOMTOLA
P.O. BILASHIPARA
DIST.- DHUBRI
ASSAM- 783348

10:BIRESH DAS

S/O- LT. KAMAI DAS
BOARD MEMBER
BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY
R/O- VILL- KADOMTOLA
P.O. BILASHIPARA
DIST.- DHUBRI
ASSAM- 783348

11:PATIT PALAN DAS
S/O- VIKU RAM DAS
BOARD MEMBER
BILASHIPARA MAHKUMA FISHERY COOPERATIVE SOCIETY
R/O- VILL- KADOMTOLA
P.O. BILASHIPARA
DIST.- DHUBRI
ASSAM- 78334

Advocate for the Petitioner : MR D DAS

Advocate for the Respondent : SC, CO OP

Linked Case : WP(C)/3960/2020

M/S. BILASHIPARA MAHAKUMA FISHERY COOPERATIVE SOCIETY LTD.
AND ANR.
VILLAGE EKLAPARA
PO DEOLIA
787053
DIST LAKHIMPUR
ASSAM

2: PRASANNA BARMAN
CHAIRMAN .BILASHIPARA MAHKUMA FISHERY CO OPERATIVE SOCIETY
LTD. VILLAGE CHANDARDINGA
PO HATIPORA
783348 DIST DHUBRI ASSAM
VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
CO OPERATION DEPARTMENT
DISPUR
GUWAHATI

2:THE REGISTRAR

CO OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI 781022
DIST KAMRUP M ASSAM

3:THE ADDITIONAL REGISTRAR OF CO OPERATIVE SOCIETIES CUM CHDBTC
KOKRAJHAR ASSAM

4:THE ASSISTANT REGISTRAR OF CO OPERATIVE SOCIETIES
DHUBRI
DHUBRI ASSAM 783331

5:SRI ANKUR DAS
FORMER SECRETARY OF MS BILASHIPARA MAHKUMA FISHERY CO OPERATIVE SOCIETY
BILASHIPARA
VILLAGE DIMTOLA
WARD NO 3 (NEAR SUMU LODGE) DHUBRI ASSAM 783348

Advocate for : MR. D DAS SR. ADV
Advocate for : SC
COOPERATION appearing for THE STATE OF ASSAM AND 4 ORS.: Advocate ,

,

,

, appearing for 2,

3,

4,

5, respectively.

BEFORE

HON'BLE MR. JUSTICE SUMAN SHYAM

07.12.2020

Heard Mr. D Das, learned senior counsel assisted by Mr. S Khound, learned counsel for the petitioners in both the writ petitions. Also heard Mr. KN Choudhury, learned senior counsel assisted by Mr. AK Hussain, learned counsel appearing for the private respondents. Ms. MD Bora, learned Standing Counsel, Cooperation Department and Mr. S Bora, learned Standing Counsel, BTC are present on behalf of the official respondents.

2. The writ petitioner No.1 is represented by the erstwhile Managing Committee of the Bilashipara Mahakuma Fishery Cooperative Society Ltd. and the writ petitioner No.2 is its former Chairman. Apprehending that the Managing Committee represented by the petitioner No.1 would be dissolved by the respondent No.2 i.e. the Registrar of Co-operative Societies without following the due process of law, the petitioners had earlier approached this Court by filing WP(C) 3960/2020 wherein, this Court had passed an interim order dated 7.10.2020 directing maintenance of status quo as regards the existing Board of Directors of the petitioner's society. However, it appears that by order dated 23.09.2020 issued by the Additional Registrar of Co-operative Societies-cum-C.H.D., B.T.C., Kokrajhar, Board of Directors represented by the petitioner No.1 was already dissolved on the ground of their failure to hold the statutory board meetings. In view of the order dated 23.09.2020 issued by the Additional Registrar, this Court had declined extension of the interim order dated 7.10.2020 beyond the returnable date, i.e.10.11.2020. Both the writ petitions have, however, come up for motion hearing today.

3. Mr. Das, learned senior counsel appearing for the writ petitioners submits that his clients are not pressing the challenge to impugned order dated 23.09.2020, but by referring to Section 41(6) of the Assam Cooperative Societies Act, 2007, the learned senior counsel submits that the respondents are duty bound to hold election of the new Management Committee of the Cooperative Society within 90 days from the date of dissolution of the Board, which coincides with 23.12.2020. Mr. Das, therefore, submits that his clients would be satisfied if the both writ petitions are disposed of by directing the respondent No.2 to ensure

that election of the Cooperative Society is held within 23.12.2020 i.e. within the 90 days period, as stipulated by section 41(6) of the Act of 2007.

4. Mr. KN Choudhury, learned senior counsel appearing for the private respondent No.6 in WP(C) 4875/2020 submits that a One Man Committee has already been appointed who has taken over charge on 24.09.2020 and it is the said authority who would be responsible for holding elections in the Society.

Mr. Choudhury has, however, fairly submitted that elections are required to be held within the statutory period of 90 days w.e.f. dissolution of the Board.

5. Ms. MD Bora, learned Standing Counsel, Cooperation Department has assured this Court that necessary steps for holding AGM/election in the cooperative society within 23.12.2020 will be initiated by following the provisions of law.

Similar is the stand of Mr. S Bora, learned Standing Counsel, BTC.

6. In view of the above, both the writ petitions are hereby disposed of with a direction to the respondent authorities to complete the process of AGM/election of the Society within 23.12.2020 by following the due process.

JUDGE

Comparing Assistant