

GAHC010033862026



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

Case No. : WP(C)/960/2026

REPON ALI SARKAR
S/O LATE JAHEDUL ISLAM, VILL. AND P.O. BAGHMARA CHAR, DIST.
BARPETA, ASSAM, PIN 781127

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECY. TO THE GOVT. OF ASSAM, DEPTT. OF FOOD,
PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS, DISPUR, GUWAHATI ,
PIN-781006

2:THE DISTRICT COMMISSIONER
BARPETA
ASSAM PIN-781301

3:THE ADDL. DISTRICT COMMISSIONER
BARPETA
ASSAM PIN-781301

4:THE REGISTRAR OF COOPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI-22

5:THE ASSTT. REGISTRAR OF COOPERATIVE SOCIETIES
BARPETA
ASSAM
PIN-781301

6:M/S BAGHMARA CHAR GPSS LTD.
REP. BY ITS CHAIRMAN

P.O- BAGHMARA CHAR
DIST- BARPETA
ASSAM
PIN-78112

Advocate for the Petitioner : MR. M S MONDAL, MR S DUTTA,MR. S H RAHMAN

Advocate for the Respondent : GA, ASSAM, SC, CO OP

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

20.02.2026

Heard Shri S. Dutta, learned Senior Counsel assisted by Shri SH Rahman, learned counsel for the petitioner.

The petitioner has put to challenge an order dated 05.02.2026 passed by the District Commissioner, Barpeta directing the Chairman of the M/S Baghmara Char GPSS Ltd. to terminate the services of the petitioner as Secretary of the said Society. The petitioner has also put to challenge the consequential notice dated 12.02.2026 whereby the meeting of the Board of Directors has been convened on 19.02.2026 to take a decision.

As per the facts projected, the petitioner was initially appointed as Assistant Secretary of the concerned Cooperative Society and was subsequently appointed as Secretary. The challenge is mainly based on the aspect of jurisdiction of the District Commissioner to issue direction for removal of the petitioner from the post of Secretary.

Shri SK Talukdar, learned Standing Counsel, Cooperation Department, by drawing the attention of this Court to Section 38 of the Assam Co-Operative Societies Act, 2007 and has contended that it is only the Board of Directors

which has a power to remove the Secretary by a resolution.

Let notice be issued, returnable on 25.03.2026.

Shri SS Roy, learned State Counsel accepts notice on behalf of the respondent nos. 1, 2& 6 and Shri SK Talukdar, learned Standing Counsel, Cooperation Department accepts notice on behalf of the respondent nos. 4& 5. Extra copies of the writ petition be served upon the learned counsel for the respondents by tomorrow.

Petitioner to take steps for service of notice upon the respondent no. 6 by speed post with A/D. Steps within two days.

Shri Dutta, learned Senior Counsel for the petitioner prays for an interim order. He has submitted that the impugned action has been taken in excess of jurisdiction as no such powers have been conferred upon the District Commissioner for removal of the petitioner from the post of Secretary of the said Sambai Samiti. On a specific query with regard to the date fixed which was yesterday for taking a resolution, the learned Senior Counsel has fairly informed that as per the oral instructions received, a resolution for removal has been taken which would however is vitiated as the basis of the said resolution is a direction from the District Commissioner, Barpeta.

Shri Talukdar, learned Standing Counsel has fairly submitted that while the District Commissioner may not be conferred with such power, the power lies with the Board of Directors under Section 38.

Considering the facts and circumstances and by balancing the equities, it is directed that till the returnable date, the part of the order dated 05.02.2026 for taking action with regard to the aspect of removal of the petitioner from the services shall remain suspended and consequential action taken by the Board

subsequent to the said direction including the resolution dated 19.03.2018 shall also remain suspended.

It is however made clear that there would no restriction on the part of the Board to take a decision strictly in accordance with law.

List on 25.03.2026.

JUDGE

Comparing Assistant