

GAHC010041632022



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

Case No. : WP(C)/1649/2022

NIZAM KHAN
S/O- LATE NANDU KHAN, VILL.- PALHAJI, P.O. AND DIST. BARPETA,
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM, CO-OPERATION DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI-781022.

3:THE ADDITIONAL REGISTRAR OF CO-OPERATIVE SOCIETIES
BARPETA
DIST. BARPETA
ASSAM

4:BOARD OF DIRECTORS OF AZAD SAMABAY SAMITY OF BARPETA
DISTRICT
ASSAM

5:PRANJIT KR. PATGIRI
SENIOR INSPECTOR/ AUDITOR OF CO-OPERATIVE SOCIETIES
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
BARPETA
ASSAM

6:MANOJ KR. SARMA
SENIOR INSPECTOR/ AUDITOR OF CO-OPERATIVE SOCIETIES

OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
BARPETA
ASSA

Advocate for the Petitioner : MR. S BANIK

Advocate for the Respondent : SC, CO OP

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

24.05.2022

Heard Mr. S. Banik, learned counsel for the petitioner, who submits that in exercise of the powers conferred under Section 130A of the Assam Cooperative Societies (Amendment) Act, 2021, herein after referred to as Act of 2021, the respondent No. 4 of the Azad Samabay Samity of Barpeta District were exempted from operation of Section 39 & 41(2) for a period of six months with effect from 21.09.2021 to 21.03.2022. On the other hand, the petitioner was removed from service by the respondent No. 4 on 10.01.2022.

The contention of the petitioner is that the Board of Directors could not have been functional in view of no AGM being held for the years 2020-2021 and 2021-2022 by the respondent No. 4 prior to 10.01.2022. The counsel for the petitioner however submits that the respondent No. 4 had convened an AGM in March, 2022 and another AGM recently also.

Issue notice, returnable by 4 (four) weeks.

Mr. S.K. Talukdar, learned counsel accepts notice on behalf of the respondent Nos. 1, 2 & 3 while Mr. S.K. Das, learned counsel accepts notice on behalf of the respondent No. 4.

On the prayer of the counsel for the petitioner, which is not objected to by the counsels for the respondents, the respondent Nos. 5 & 6 are struck off as parties from the case.

List the matter after 4 (four) weeks.

In the interim, the Resolution No. 2 in the Meeting dated 10.01.2022 of the Azad Samabay Samity of Barpeta District shall remain stayed and the petitioner shall accordingly be allowed to continue as a Secretary of the Azad Samabay Samity of Barpeta District.

As the respondent No. 4 have convened AGMs in March, 2022 and thereafter, it is not in dispute between the parties that the Board of Directors is functioning as per law and as such, pendency of the writ petition will not be a bar for the respondent No. 4 to pass a fresh resolution of removal against the petitioner. Further, the maintainability of the writ petition is kept open for consideration.

JUDGE

Comparing Assistant