

GAHC010088192022



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

Case No. : WP(C)/3038/2022

HOBIBOR RAHMAN MONDAL AND 8 ORS.
S/O LT. SOFIUR RAHMAN MONDAL, VILL-KHARUABANDA, P.O.-
FEKAMARI, P.S.-SOUTH SALMARA, DIST-SOUTH SALMARA MANKACHAR,
ASSAM

2: A. ROSHID MONDAL
S/O LT. ABDUL JALIL MONDAL
VILL-FEKAMARI PT.I
P.O.-FEKAMARI
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR
ASSAM

3: ABUL KASHEM
S/O ABDUL JOBBER
VILL-KHARUABANDA
P.O.-FEKAMARI
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR
ASSAM

4: AMZALU SK
S/O LT. JOBANULLAH SK
VILL-KHARUABANDA
P.O.-FEKAMARI
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR
ASSAM

5: SHAHIZAL
S/O LT. SOLIM UDDIN
VILL AND P.O.-FULERCHAR
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR

ASSAM

6: SANOWAR ISLAM
S/O LT. SHAHA MOHAMMAD SARKAR
VILL-KHARUABANDA
P.O.-FEKAMARI
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR
ASSAM

7: PARVIN SULTANA
W/O ABUL KALAM AZAD
VILL AND P.O.-MANULLAPARA
P.S.-KALAPANI
DIST-SOUTH SALMARA MANKACHAR
ASSAM

8: MORIOM BEGUM
W/O ANOWARUL ISLAM
VILL-KHARUABANDA
P.O.-FEKAMARI
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR
ASSAM

9: DILIP KUMAR MOJUMDAR
S/O JATINDRA MAJUMDAR
VILL AND P.O.-FEKAMARI
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT.
OF ASSAM, FOOD AND CIVIL SUPPLIES DEPARTMENT, DISPUR,
GUWAHATI-6

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

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

PIN-783370

4:THE DEPUTY COMMISSIONER
SOUTH SALMARA MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
HATSINGIMARI
PIN-783135

5:THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES
HATSINGIMARI
PIN-783135

6:REJEKUR RAHMAN
ONE MAN AD-HOC COMMITTEE
FEKAMARI S.S. LTD.-CUM-SENIOR INSPECTOR
OFFICE OF ARCS
HATSINGIMARI
PIN-78313

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/3789/2020

HOBIBAR RAHMAN MONDOL
S/O LATE SOFIUR RAHMAN MONDAL
VILLAGE KHARUABANDA
PO FEKAMARI PS SOUTH SALMARA
DIST SOUTH SALMARA MANKACHAR
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
FOOD AND CIVIL SUPPLIES DEPARTMENT
DISPUR
GUWAHATI 6

2:THE REGISTRAR OF CO OPERATIVE SOCIETIES

ASSAM KHANAPARA

GUWAHATI 781022

3:ADDITIONAL REGISTRAR OF CO OPERATIVE SOCIETIES CUM CHD BTC
KOKRAJHAR

ASSAM 783370

BTC KOKRAJHAR

ASSAM 783370

4:THE DEPUTY COMMISSIONER

SOUTH SALMARA MANKACHAR

HATSHINGIMARI

783135

5:THE ASSISTANT REGISTRAR OF CO OPERATIVE SOCIETIES

HATSHINGIMARI 783135

Advocate for : MR. S K DAS

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 4 ORS.

Linked Case : Cont.Cas(C)/30/2021

HOBIBOR ROHMAN MONDOL

S/O LT. SOFIUR RAHMAN MONDOL

VILL. KHARUABANDA

P.O. FEKAMARI

P.S. SOUTH SALMARA

DIST. SOUTH SALMARA

MANKACHAR

ASSAM.

VERSUS

B K AGARWALA

ADDITIONAL REGISTRAR OF CO OPERATIVE SOCIETIES CUM C.H.D.

B.T.C. KOKRAJHAR

ASSAM

PIN 783370

Advocate for : MR. S K DAS

Advocate for : MR. S K TALUKDAR appearing for B K AGARWALA

BEFORE

HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

10-05-2022

Heard Mr. S K Das, learned counsel for the petitioners and Mr. S K Talukdar, learned Standing counsel, Co-operation Department, Assam for the respondent Nos. 1, 2, 3 & 5.

Petitioners are allowed to correct the inadvertent typographical mistake occurred with regard to the respondent No. 1 by substituting the name of the Additional Chief Secretary to the Govt. of Assam, Co-operation Department in place of Additional Chief Secretary to the Govt. of Assam, Food and Civil Supplies Department.

Petitioners shall do the needful during the course of the day.

Petitioners were the Board of Directors of the Fekamari Samabai Samity in the district of South Salmara, Hatisingimari. As the petitioners failed to hold the AGM-cum-Election which was supposed to held on 20.05.2020, the Additional Registrar of Co-operative Societies cum C.H.D, BTC, Kokrajhar by its order No. KAS(BTC)75/87/212 dated 01.07.2020 dissolved the Board of Directors of the said society in terms of the provisions of Section 39 and 41(6) of the Assam Co-operative Societies Act, 2007 and appointed one man ad-hoc committee to manage the said Fekamari Samabai Samity.

The said one man committee of Fekamari Samabai Samity issued notice dated 27.04.2022 fixing 22.05.2022 as the date for AGM-cum-Election of the said society as per provisions of said 2007 Act with the rider that as the previous Board of Directors of the said society failed to hold the AGM-cum-Election of the said society, it will not be able to participate in the election process of the said society, scheduled for the session 2022-2023.

Mr. Das, learned counsel appearing for the petitioners placed before the Court that the nomination papers for the post of Directors of the said society shall be made available from 10 AM today i.e. 10.05.2022 and it should be submitted on or before 4PM of 12.05.2022 and the withdrawal of nomination is fixed on 14.05.2022 between 10AM to 4PM. As the petitioners who are the previous members of Board of Directors of the said Samabai Samity who failed to hold the AGM-cum-Election prior to 22.05.2022 and as the One Man Committee of the said society has barred the petitioners from participating in the ensuing election of the

said Samabai Samity scheduled on 22.05.2022, being aggrieved, the petitioners have preferred this writ petition.

Petitioners earlier preferred a writ petition being WP(C) No. 3789/2020 challenging the order dated 01.07.2020 of the Additional Registrar of Co-operative Societies, whereby the said authority dissolved the Board of Directors of the Fekamari Samabai Samity under Section 39 and 41(6) of the said 2007 Act.

Mr. Das placed the copy of the order dated 06.10.2020 passed in said WP(C) No. 3789/2020, wherein the Court while issuing notice to the respondents making it returnable by 10.11.2020, in the interim specified that the consequential effect of not holding AGM-cum-Election under Section 39 and 41(6) of the said 2007 Act shall not, in any manner, ensue upon the existing Board of the petitioners until further orders.

It is also placed before the Court by Mr. Das, learned counsel for the petitioners that the respondents in the Co-operation Department till date has not filed any affidavit in the said WP(C) No. 3789/2020.

Issue notice, returnable by **6 (six) weeks**.

As Mr. S K Talukdar, learned Standing counsel, Co-operation Department has accepted the notices on behalf of the respondent Nos. 1, 2, 3 & 5, no formal notice need to be issued to those respondents.

Petitioner shall serve requisite extra copies of this writ petition including the Annexures appended thereto to Mr. S K Talukdar, learned Standing counsel, Co-operation Department by tomorrow i.e. 11.05.2022, obtaining necessary acknowledgement from him in that regard.

Petitioner shall take steps for service of notices on the respondent No. 6 by registered post with A/D by tomorrow, i.e. 11.05.2022, providing his proper and correct address with requisite postal stamps.

In addition to the above, the petitioner shall also take steps for service of notices on the respondent No. 6 by dasti/personal service to be routed through the Registry of this Court. Such dasti/personal service on the respondent No. 6 shall be made by serving a copy of this writ petition including the Annexures appended thereto and by obtaining his signature and

date in presence of one or more witnesses. Thereafter, the petitioner shall file an affidavit towards completion of such dasti/personal service on the said respondent No. 6.

Considering the order dated 06.10.2020 passed in WP(C) No. 3789/2020 which is in force till date, the observations made by the One Man Ad-hoc Committee of said Fekamari Samabai Samity at Clause 21 of said notice dated 27.04.2022 for AGM-cum-Election of said society that as per rules of the Co-operative Society previous Board of Directors who failed to hold the AGM-cum-Election of said Fekamari Samabai Samity will not be able to participate in the election process of the said Samabai Samity for the session 2022-2023, shall remain suspended until further order of the Court and the petitioners on their approach and on payment of necessary fees and costs, as the case may be, in terms of the said notice dated 27.04.2022 issued by the One Man Committee of said Samity shall be provided with Nomination Forms to participate in the ensuing election process of the said Samabai Samity for the session 2022-2023.

However, participation in any such election for the Board of Directors of the Fekamari Samabai Samity by the petitioners in terms of the Notice dated 27.04.2022 issued by the One Man Committee, noted above, shall be subject to the outcome of the present writ petition as well as that of WP(C) No. 3789/2020.

List accordingly.

JUDGE

Comparing Assistant