

GAHC010208372024



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

Case No. : WP(C)/5147/2024

DHIRAJ MAZUMDAR AND 2 ORS
SON OF DHRUBA MAZUMDAR,
RESIDENT OF HN-43, PUB JYOTI NAGAR,
SWAHID SB CHOWK, GUWAHATI- 781020,
DISTRICT- KAMRUP(M), ASSAM.

2: DHIREN DEKA
SON OF LATE BHABEN DEKA

RESIDENT OF HN-2
CHANDMARI COLONY

NAMONI NIJARAPAR
GUWAHATI- 781003

DISTRICT- KAMRUP(M)
ASSAM.

3: N.P. RAO
SON OF N. GURUL

RESIDENT OF CENTRAL GOTANAGAR

MALIGAON
GUWAHATI- 781011

DISTRICT- KAMRUP(M)
ASSAM

VERSUS

THE STATE OF ASSAM AND 21 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
COOPERATIVE DEPARTMENT,

GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI- 781006,
DISTRICT- KAMRUP(M), ASSAM.

2:THE REGISTRAR OF COOPERATIVE SOCIETIES
KHANAPARA
GUWAHATI- 781022

DISTRICT- KAMRUP(M)
ASSAM.

3:THE ADDITIONAL REGISTRAR OF CO-OPERATIVE SOCIETIES

KHANAPARA
GUWAHATI- 781022

DISTRICT- KAMRUP(M)
ASSAM.

4:THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES
KHANAPARA
GUWAHATI- 781022

DISTRICT- KAMRUP(M)
ASSAM.

5:INDUSTRIAL CO-OPERATIVE BANK LTD.
REPRESENTED BY THE ADMINISTRATOR

AND HAVING ITS OFFICE AT S.S. ROAD
LAKHTOKIA

GUWAHATI- 781001
DISTRICT- KAMRUP(M)

ASSAM.

6:THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD.
HAVING ITS OFFICE AT S.S. ROAD
LAKHTOKIA

GUWAHATI- 781001
DISTRICT- KAMRUP(M)

ASSAM.

7:THE CHIEF EXECUTIVE OFFICER CUM SECRETARY

INDUSTRIAL CO-OPERATIVE BANK LTD.
HAVING ITS OFFICE AT S.S. ROAD
LAKHTOKIA

GUWAHATI- 781001
DISTRICT- KAMRUP(M)

ASSAM.

8:GANESH DEKA
PRESENTLY SERVING AS CHIEF EXECUTIVE OFFICER CUM SECRETARY

INDUSTRIAL CO-OPERATIVE BANK LTD.

HAVING ITS OFFICE AT S.S. ROAD
LAKHTOKIA

GUWAHATI- 781001
DISTRICT- KAMRUP(M)

ASSAM.

9:ARUP BAISHYA
THROUGH THE ADMINISTRATOR

INDUSTRIAL CO-OPERATIVE BANK LTD.

S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)

ASSAM.

10:UPEN DEKA
THROUGH THE ADMINISTRATOR

INDUSTRIAL CO-OPERATIVE BANK LTD.

S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)

ASSAM.

11:THE RETURNING OFFICER
THROUGH THE REGISTRAR OF COOPERATIVE SOCIETIES

ASSAM

KHANAPARA
GUWAHATI- 781022

DISTRICT- KAMRUP(M)
ASSAM.

12:AFROZ MOHAMMED
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

13:SAURAV HAZARIKA
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

14:ASHIM CHAMUAH
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

15:SWAPAN KUMAR PAUL
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

16:ANAMKIKIA MITRA
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD

LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

17:AKDAS ALI MIR
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

18:DIPAK MAHANTA
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

19:MUKUL CHANDRA DAS
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

20:JAGANNATH DAS
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
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GUWAHATI- 781001
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21:MUSTAFA MUSTAQ HUSSAIN
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
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INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
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GUWAHATI- 781001
DISTRICT- KAMRUP(M)

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22:CHITRARATHA BARMAN
ELECTED MEMBER OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL
CO-OPERATIVE BANK LTD. THROUGH THE ADMINISTRATOR
INDUSTRIAL CO-OPERATIVE BANK LTD. AT S.S. ROAD
LAKHTOKIA
GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

23:THE RESERVED BANK OF INDIA
REPRESENTED BY ITS GOVERNOR AND
HAVING ITS OFFICE AT RBI MAIN BUILDING
SHAHID BHAGAT SINGH ROAD
FORT
MUMBAI-400001
MAHARSHTRA

24:THE REGIONAL DIRECTOR
RESERVED BANK OF INDIA

PAN BAZAAR
STATION ROAD
GUWAHATI-781001
ASSA

Advocate for the Petitioner : MR. K P PATHAK, MR. C PAUL,MR BHARGAV DAS

Advocate for the Respondent : SC, CO OP, MR. P HAZARIKA (R-23,24),MR. P HAZARIKA
SC,RBI,MR. A BORPUZARI (R-9,10),MR. M MORE (R-9,10),R BHOWAL (R5-R7),MS S DAS (R5-
R7),GA, ASSAM

Linked Case : I.A.(Civil)/1767/2025

SAURAV HAZARIKA
S/O LATE ANIL HAZARIKA
RESIDENT OF HOUSE NO. 21
NATUN SARANIA
GANDHI BASTI HILL SIDE
PS CHANDMARI
GUWAHATI 781003 KAMRUP M ASSAM

2: AFROZ MOHAMMED
S/O LATE AFTAB HUSSAIN
RESIDENT OF RAMSA HILS
KHARGHULI
GUWAHATI 781004
KAMRUP M ASSAM

3: ANAMIKIA MITRA
D/O LATE SRI SUSHIL CHANDRA MITRA

RESIDENT OF HOUSE NO. 8
HAZI SABIRUDDIN ROAD
CHATRIBARI
GUWAHATI 781008 ASSAM

4: SRI ASHIM CHAMUAH

S/O LATE GANESH CHAMUAH

RESIDENT OF HOUSE NO. 2 CHANDMARI COLONY
NAMONI NIJARAPAR
GUWAHATI 781003 KAMRUP M ASSAM
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GUWAHATI- 781001
DISTRICT- KAMRUP(M)
ASSAM.

Advocate for : MR S BORTHAKUR
Advocate for : SC
CO OP appearing for THE STATE OF ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

23.07.2025

1. Heard Mr. K P Pathak, learned counsel for the petitioners, who are share holders of the registered Co-operative Society. Also heard Mr. SK Talukdar, learned standing counsel for the Co-operation Department, Mr. P Hazarika, learned standing counsel for the Reserve Bank of India, Mr. S Borthakur, learned counsel for the respondent Nos. 12,13,14 and 16 and Mr. A Barpujari, learned counsel for the respondent Nos. 9 and 10. Though notices upon the other respondents were served through dasti, none appears.

2. The case of the petitioners is that pursuant to a notice issued for holding the election by the respondent No. 6, thirteen share holders of the respondent No. 5, (a co-operative society registered under provisions of Assam Co-operative Societies Act, 2007) were declared elected to the Board of Director in annual meeting held on 06.09.2024.

3. The case of the petitioners is that the respondent Nos. 9 and 10 were not eligible to be elected to the Board of Directors, in terms of Section 40(3) and Section 40(5) of the Act, 2007 inasmuch as according to the petitioners, respondent Nos. 10 had an existing loan with respondent No. 5 and respondent No. 3 is a defaulter in payment of dues to the respondent No. 5.

4. This court under its order dated 30.09.2024 directed the respondent No. 5 to bring on record their stand by filing an affidavit indicating as to whether respondent Nos. 9 and 10 have incurred disqualification in terms of Section 40(3) and Section 40(5) of the Act, 2007 as alleged in the writ petition.

5. Mr. Talukdar, learned counsel for the respondent No. 5 submits that though an affidavit was directed to be filed, the Registrar of Co-operative Societies, however, to have clarity, sought for an opinion from the Reserve Bank of India in this regard and in absence of such opinion from Reserve Bank of India, they could not file the affidavit.

6. On the other hand, Mr. Hazarika, learned counsel representing the Reserve Bank of India, on instruction, submits that the Reserve Bank of India has already expressed their opinion by a communication dated 09.06.2025 based on the RBI Master Circular.

7. Be that as it may, as this court has earlier directed to file an affidavit to the respondent No. 5 to clarify their stands as recorded hereinabove in terms of provision of Section 40(3) and Section 40(5) of the Act, 2007, they should file an affidavit in that regard.

8. Mr. Talukdar also submits that though no interim order was passed, however, taking note of the pendency of this writ petition, the Board of Director has not hold their first meeting to assume the charges and the bank is suffering.

9. The issue revolves around disqualification of the respondent Nos. 9 and 10. The learned counsel for the respondent Nos. 9 and 10 seeks for adjournment to file an affidavit.

10. Mr. S Borthakur, learned counsel representing respondent Nos. 12,13,14 and 16 on the other hand submits that his clients have already resigned from the directorship.

11. Be that as it may, even his clients have resigned and even the respondent Nos. 9 and 10 for the time being are excluded from participating in the Board of Directors meeting, taking note of the issues raised in this writ petition, the other Directors form the quorum, may proceed with holding the first meeting subsequent to the election dated 06.09.2024 inasmuch as pending determination of the issues involved shall not stall the function of the Board. Ordered accordingly. However, it is provided that though the respondent Nos. 9 and 10 can participate in the Board of Directors' first meeting, however they shall not be made part of any decision making process, till the next returnable date.

12. List this matter again on 22.08.2025.

JUDGE

Comparing Assistant