
(2001) 09 GAU CK 0012
In the Gauhati High Court
Case No : Writ Petition (C) No. 6880 of 2001

Abul Kalam Azad

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 28-09-2001

Acts Referred:

Assam Co-operative Societies Act, 1949 — Section 32(3)

Citation : (2001) 3 GLT 512

Hon'ble Judges : B. Biswas, J

Bench : Single Bench

Advocate : A.M. Mazumdar, J. Ahmed and S. Das, for the Appellant; A. Hazarika, for the Respondent

Judgement

D. Biswas, J.—Heard Mr. AM Mazumdar, the learned senior counsel for the writ Petitioner and Mr. B. Choudhury, the learned State counsel.

2. This matter pertains to dissolution of the Petitioner's Co-operative Society which was elected to office on 30.5.2000. During the course of argument it has been agreed by the learned Counsel for the parties that the writ petition be disposed of finally.

3. It would appear that the Petitioner was the Chairman of the erstwhile Managing Committee of the Mahabir Char-Purarchar S.S. Ltd. It was also constituted after being duly elected on 30.5.2000. The proceedings of the Annual General Meeting and the election were furnished before the Asstt. Registrar of Co-operative Societies, Hat-singimari and the same was approved of by orders passed on 1.6.2000. The next Annual General Meeting was due by the end of May, 2001. The Secretary of the Society by an application filed on 16.5.2001 (Annexure-2) prayed for extension of time for holding the AGM of the Society for the year 2001-2002. This application was pending with the registrar of Co-operative Societies, Assam for a decision. Without rejecting or allowing the prayer, the Zonal Joint Registrar of Cooperative Society, Kokrajhar by an order passed on 4.6.2001 dissolved the elected Managing Committee headed by the

writ Petitioner in exercise of powers u/s 32(3) of the Assam Cooperative Societies Act. By the same order the Joint Registrar of Cooperative Societies appointed Shri U.B. Roy, an officer, as Executive Officer to manage the affairs of the Society. Immediate thereafter i.e. on 15.6.2001 the impugned order was passed by the Registrar of Cooperative Societies constituting an ad-hoc managing committee composed of the private Respondents.

4. Mr. Mazumdar, the learned Counsel highlighted the grievance of the Petitioner Society and submitted that since the application submitted by the Secretary for extension of time to hold Annual General Meeting was awaiting a decision, the impugned notification taking over the management of the committee ought not to have been issued. Had the authorities communicated their decision rejecting the prayer for extension, the Society headed by the writ Petitioner would have arranged for holding the AGM immediately. That apart, Shri Mazumdar also pointed out that normally an elected body should not be replaced by an ad-hoc body as this is completely against the aims and objects of the cooperative movement which has been sought to be accelerated by enacting the Assam Cooperative Societies Act, 1949. Mr. Mazumdar also pointed out that failure on the part of a duly elected body to hold Annual General Meeting within the schedule time for reasons communicated cannot be taken to be a ground for dissolution of the committee. The authorities cannot be oblivious to the problems that a society may face in its day-to-day activities. Therefore, Shri Mazumdar argued that the authority ought to have given due consideration to the application submitted by the Petitioner society for extension of time. According to him, the order of dissolution is arbitrary and contrary to the aims and objects of the Act.

5. In view of what is submitted above, this Court is of the opinion that since the ad-hoc body constituted by the order dated 15th June, 2001 is for running the day-to-day affairs of the society during the interim period, a direction to the Registrar of Cooperative Societies to allow the erstwhile elected managing committee to hold the AGM would be an appropriate order in the given circumstances of the case. Consequently, this writ petition is disposed of with a direction to the Respondents, particularly the Respondents No. 2, 3 and 4 to take immediate steps to allow the elected committee headed by the writ Petitioner to hold the Annual General Meeting within a given time and after such meeting is held, to pass appropriate orders in accordance with the provisions of law to facilitate smooth functioning of the Society by the elected managing Committee. Orders in this behalf be passed within a period of 15 days from the day when a copy of this judgment and order is furnished to them by the writ Petitioner. Till then, the operation of the orders dated 4.6.2001 and 15.6.2001 (Annexure-3 and 4) shall remain in abeyance.

No order as to costs.