

(2021) 11 GAU CK 0037

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 5995 Of 2021

Sharbesh Khan And 8 Ors

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 15-11-2021

Acts Referred:

Assam Cooperative Societies Act, 2007 — Section 32, 39, 41(6), 130A

Citation : (2021) 11 GAU CK 0037

Hon'ble Judges : Manash Ranjan Pathak, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Heard Dr. B Ahmed, learned counsel for the petitioners and Mr. S K Talukdar, learned Standing counsel, Co-operation Department for the respondent Nos. 1, 2, 3, 5 & 6. Also heard Mr. K Goswami, learned Additional Senior Government Advocate, Assam for the respondent No. 4.

Petitioners herein are the Members of the Azad Gaon Panchayat Samabai Samity Limited in the district of Barpeta. The said Samabai Samity in its meeting held on 23.09.2021 decided to hold its Annual General Meeting on 29.09.2021 for which they approached the District Deputy Registrar, Co-operative Societies, Barpeta as well as the Assistant Registrar of Co-operative Societies, Barpeta for its approval to hold the Annual General Meeting. However, the respondents did not give its consent/approval for holding such Annual General Meeting of the said society.

Being aggrieved with the same, the petitioners have approached this Court for a direction to the respondents in the Co-operation Department of the State not to dissolve the Board of Directors of said Azad Gaon Panchayat Samabai Samity Limited, Barpeta. In the meanwhile, the Zonal Joint Registrar of Co-operative Societies, Guwahati Zone, Guwahati dissolved the management of the said Azad Gaon Panchayat Samabai Samity Limited as it failed to hold the Annual General Meeting for the years 2020-2021 & 2021-2022 as required under the provisions

of Section 32 of the Assam Co-operative Societies Act, 2007 as amended, dissolving the Board of Directors of the said Samabai Samity under the provisions of Section 39 for violation of the provisions of Section 32 of the said 2007 Act. By the said order dated 27.10.2021, the Zonal Joint Registrar of Co-operative Societies, Guwahati Zone, Guwahati have appointed one Sri Manoj Kumar Sarma, Junior Inspector/Auditor of Co-operative Societies, Office of the Assistant Registrar of Co-operative Societies, Barpeta in exercise of the power under Section 41(6) of the said 2007 Act to perform all functions of the Board and to convene the Annual General Meeting of the said Samabai Samity to constitute the Board of Directors within a period of 90 days at the cost of the society, provided there is no any case pending in that regard.

Being aggrieved with the same, petitioners have preferred this writ petition praying amongst others to set aside the said order dated 27.10.2021 issued by the Zonal Joint Registrar of Co-operative Societies, Guwahati Zone, Guwahati and to allow them to hold the Annual General Meeting of the said society.

It is placed before the Court that during the period of 2020-2021 & 2021-2022 for holding such meeting, prior permission was mandatory from the concerned Deputy Commissioner of the District under the provisions of the Disaster Management Act as during the said period, the State was facing the Pandemic of Covid 19. The petitioners could not hold the Annual General Meeting of the said society for the said period as they did not receive any permission from the authority concerned under the Disaster Management Act for holding the said Annual General Meeting.

As such, Dr. Ahmed, learned counsel for the petitioners submits that the impugned decision issued by the Zonal Joint Registrar of Co-operative Societies, Guwahati Zone, Guwahati dated 27.10.2021 dissolving the management of the said society for not holding the Annual General Meeting being bad in law needs to be set aside and quashed and further appointment of One Man Committee to manage the society till holding of the Annual General Meeting of the said society should also be set aside and quashed.

The petitioners have placed the provisions of Section 130A of the Assam Co-operative Societies Act, which came into force on 25.03.2020 and published in the Assam Gazette on 09.06.2021.

Relying on the said Section 130A of the 2007 Act, Dr. Ahmed, learned counsel for the petitioners submitted that the respondents in the Co-operation Department without considering the said provision of Section 130A of the 2007 Act as amended issued the impugned order dated 27.10.2021 and therefore the same is liable to be set and quashed.

After hearing the learned counsels for the parties, considering the entire aspects of the matter and as agreed by the parties, this writ petition is disposed of at the motion stage itself directing the petitioners to submit representation before the Commissioner & Secretary, Govt. of Assam in the Co-operation Department as

provided under Section 130A of the Assam Co-operative Societies Act, 2007 as amended stating its grievances regarding dissolution of the Board of Directors of the said Azad Gaon Panchayat Samabai Samity Limited, Barpeta and appointment of One Man Committee by the Zonal Joint Registrar of Co-operative Societies, Guwahati Zone, Guwahati by order under No. NGPS.1/2012/Pt.-III/86 dated 27.10.2021 and to allow the petitioners to hold the Annual General Meeting of the said society within a stipulated period of time that may be prescribed by the said authority.

In the event of filing such representation by the petitioners before the Commissioner & Secretary to the Govt. of Assam, Co-operative Department, respondent No. 1 on or before 26.11.2021 along with a certified copy of this order as well as a copy of this petition including the Annexures appended thereto with their telephone/mobile number, e-mail address etc., for issuing necessary communication to them, the Commissioner & Secretary to the Govt. of Assam, Co-operative Department respondent No. 1 within a period of 30 days from the date of receipt of such representation from them shall consider such grievances of the petitioners and shall pass a reasoned order on such representation of the petitioners on or before 30.12.2021 considering all the relevant aspects and the records.

It is made clear that this writ petition is disposed of at the motion stage itself without entering into the merit of the Order No. NGPS.1/2012/Pt.-III/86 dated 27.10.2021 passed by the Zonal Joint Registrar of Co-operative Societies, Guwahati Zone, Guwahati.

With the above observation and direction, this writ petition stands disposed of.