

WP(C) 4498/2009
BEFORE
THE HON'BLE MR JUSTICE B.P. KATAKEY

Petitioner filed the present writ petitions challenging the order dated 18.9.09(Annexure-G) issued by Assistant Registrar of Cooperative Societies refusing to approve the proceedings of AGM of Kangkan Samabai Samiti Ltd held on 15.9.09, amongst other for election of the office bearers of the managing committee of the said society. Petitioner has also challenged the order dated 29.9.09 passed by the Zonal Joint Registrar of Cooperative Societies, Tezpur constituting one man ad-hoc committee headed by Sri Lakhi Pegu, Jr Inspector Auditor of Cooperative Societies, Dhemaaji to managing the affairs of the society with direction to hold the AGM within 90 days from the date of such order.

I have heard Mr BD Goswami, learned counsel for petitioner as well as Mr s VL Singh, learned state counsel, appearing for the respondents.

The writ petitions are resisted by respondents by filing affidavit-in-opposition in WP(C) No.4276/09 contending that approval was not accorded as per the communication dated 17.9.09 issued by the Deputy Commissioner, without, however, making any independent enquiry by the Assistant Registrar of Cooperative Societies. It appears from the communication dated 17.9.09 issued by the Deputy Commissioner, which has been annexed with the affidavit-in-opposition filed by Assistant Registrar of Cooperative Societies, that some serious allegations have been made relating to the conduct of election on 15.9.09. Such question of fact relating to alleged illegality in conducting the election, though the petitioner has denied the same, cannot conveniently be decided in a writ proceeding under Article 226 of the Constitution of India. Such question of fact can conveniently be dealt with in an appeal u/s 80 of the Assam Cooperative Societies Act, 1949 by Registrar of Cooperative Societies, as the order passed by the Assistant Registrar refusing to accord approval of the proceedings of the AGM is appellable.

In view of the above, present writ petitions are disposed of with the observation that the petitioner may approach the Registrar of Cooperative Societies within 10 days from today. In the event the petitioner approaches the Registrar by way of an appeal within the aforesaid period, the said authority shall consider and dispose of the same in accordance with law within 4 weeks from the date of filing of such appeal. It is needless to say that the Registrar while disposing of such appeal shall call for the relevant records and pass a speaking order. In case the Registrar finds that the Assistant Registrar of Cooperative Societies ought to have accorded the approval to the proceedings of the AGM, necessary orders shall be passed and the order dated 29.9.09 appointing the one man ad-hoc committee shall then be withdrawn.

The writ petitions are accordingly disposed of. No costs.