

Heard Mr MK Choudhury, learned senior counsel assisted by Mr M Khataniar, learned counsel for the petitioner, Mr AM Mazumdar, learned senior counsel for the respondent No 9-Caveator and Ms H Phukan, learned GA, Assam.

The subject matter of challenge in this writ petition is the order No GPSS. 30 / 2007 / 400 passed by the Registrar, Cooperative Societies, Assam, setting aside the Annual General Meeting and the Election of the Bongaon GPSS Ltd and also canceling the approval accorded to the resolution adopted in the said meeting by the Assistant Registrar, Cooperative Societies, Guwahati.

The Annual General Meeting was held on 20.10.2009 and the new members to the Managing Committee to the Society were elected. After the election is over, a complaint was lodged for illegally holding the Annual General Meeting, more particularly, holding of the election on the basis of incorrect voter list containing the names of 'D' voters and induction of the names of some of dead persons.

An enquiry was also held to that effect by the Junior Inspector of Cooperative Societies. But the said enquiry report does not speak anything about continuance of the names of 'D' voters as well as inclusion of the names of some of dead persons in the voter list. After according approval to the Annual General Meeting and the election an appeal was filed before the Registrar, Cooperative Societies, Assam, challenging the same. The appellate authority by the impugned order has set aside the election.

Mr Choudhury, submits that although a notice was issued to the petitioner No 1, other petitioners who were also elected members of the Managing Committee, elected the Annual General Meeting, were not served with such notices. Further submission of Mr Choudhury is that while the matter was taken up for hearing, the petitioner No 1 was directed stay out side and the matter was decided in his absence.

From the papers and documents annexed to this writ petition, it is found that no notices other than the petitioner No 1 were served, which can be seen from the notice dated 11.11.2009.

Mr Mazumdar, learned senior counsel, appearing on behalf of the Caveator- respondent No 9, has fairly submits that if no notice has been issued to other petitioners than obviously their valuable rights have been affected and they are entitled for such notices.

In view of the aforesaid fact situation, I am satisfied that the impugned order has been passed behind back of the petitioner Nos 2 to 9 without issuing any notice to them affecting their valuable rights. Consequently, the impugned order cannot be sustained. Accordingly, the impugned order dated 30.11.2009 stands set aside and quashed. The matter is remanded back to the Registrar, Cooperative Societies for hearing afresh after considering the submissions made on behalf of the petitioners. Both the parties are directed to appear before the Assistant Registrar, Cooperative Societies on 8.1.2009 and no fresh notice need be issued to the petitioners and/or newly elected members of the Managing Committee elected in the Annual General Meeting held on 20.10.2009. Upon hearing both the parties, the Registrar, Cooperative Societies, Assam, shall pass appropriate order that may be justified under the facts and law.

The writ petition stands allowed to the extent indicated above with the directions as contained.