

GAHC010200582024



2026:GAU-AS:2646-DB

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

Case No. : WA/340/2024

AYESHA SULTANA CHOUDHURY
D/O- HABIBUR RAHMAN CHOUDHURY, VILLAGE- UTTARKRISHNAPUR
PART-I, P.O.- UTTARKRISHNAPUR, DISTRICT- CACHAR, ASSAM, PIN-
788006.

VERSUS

THE STATE OF ASSAM AND 18 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, COOPERATION DEPARTMENT, DISPUR,
GUWAHATI-6.

2:THE REGISTRAR OF COOPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI- 22.

3:THE ZONAL JOINT REGISTRAR OF COOPERATIVE SOCIETIES
SILCHAR ZONE
SILCHAR
DISTRICT- CACHAR
ASSAM

PIN- 788001.

4:THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES
SILCHAR
DISTRICT- CACHAR
ASSAM

PIN- 788001.

5:THE MEHERPUR-KRISHNAPUR COOPERATIVE SOCIETIES LIMITED
REPRESENTED BY ITS SECRETARY

VILLAGE- UTTARKRISHNAPUR PART-I

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM

PIN- 788006.

6:AYUB UDDIN LASKAR
S/O- LATE LAKAMONI LASKAR
R/O- VILLAGE- UTTARKRISHNAPUR PART-II
P.O.- UTTARKRISHNAPUR
DISTRICT- CACHAR
ASSAM.

7:ABDUL KALAM LASKAR
S/O- LATE SAMS UDDIN LASKAR

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

8:RAFIK UDDIN BARBHUIYA
S/O- LATE KALA MIA BARBHUIYA

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

9:HARIS ALI MAZUMDWER
S/O- LATE SABER ALI MAZUMDER

R/O- VILLAGE- SUBASHPUR PART-I

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

10:AMRIT GOALA
S/O- RAMPRABESH GOALA

R/O- VILLAGE- ATALBASTI

P.O.- GHOONGUR

DISTRICT- CACHAR
ASSAM.

11:JALAL UDDIN LASKAR
S/O- LATE GULAM AKBAR LASKAR

R/O- VILLAGE- AMBIKAPUR PART-IV

P.O.- MEHERPUR

DISTRICT- CACHAR
ASSAM.

12:ABU DAS
S/O- LATE GIRI MOHAN DAS

R/O- VILLAGE- UTTARKRISHNAPUR PART-III

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

13:SALIM UDDIN BARBHUIYA
S/O- LATE MOSAID ALI BARBHUIYA

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

14:FARUQUE AHMED LASKAR
S/O- LATE KAMARU UDDIN LASKAR

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

15:KIRTIBAAS CHASA
S/O- LATE JAGADEB CHASA

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

16:LALON UDDIN BARBHUIYA
S/O- LATE SAMIR UDDIN BARBHUIYA

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

17:MOKTAR UDDIN MAZUMDER
S/O- LATE LATU MAZUMDER

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

18:MISLU AHMED CHOUDHURY
S/O- LATE ARZUMAN ALI CHOUDHURY

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM.

19:IMRANA AHMED MAZUMDER
S/O- FAISUL AHMED MAZUMDER

R/O- VILLAGE- UTTARKRISHNAPUR PART-II

P.O.- UTTARKRISHNAPUR

DISTRICT- CACHAR
ASSAM

Advocate for the Petitioner : MR H K DAS, MR N K SARMA,MS. S PARVEEN

Advocate for the Respondent : SC, CO OP, MR. M SARMA,H YEASMIN (R6, R8-R13, R15-R19),MR. A K AZAD (R6, R8-R13, R15-R19),MR H I CHOUDHURY (R6, R8-R13, R15-R19),MR. S BANIK (R6, R8-R13, R15-R19),GA, ASSAM

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the Appellants : Mr. H.K.Das, Adv
For the Respondents : Mr. S.K.Talukdar, Adv
Mr. H.I.Choudhury, Adv
Mr. S. Banik, Adv.

Date on which judgment was reserved : 13.02.2026

Date of pronouncement of judgment : 23.02.2026

Whether the pronouncement is of the
operative part of the judgment? : No

Whether the judgment has been pronounced? : Yes

JUDGMENT & ORDER (CAV)

(Arun Dev Choudhury, J)

1. We have heard Mr. H. K. Das, learned counsel for the appellant. Also heard Mr. S. K. Talukdar, learned Standing Counsel

for the Co-operation Department representing the respondent Nos. 1, 2, 3 and 3; Mr. S. Banik, learned counsel and Mr. H. I. Choudhury, learned counsel for the respondent Nos. 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18 & 19.

2. The present appeal calls into question the correctness of the judgment and order (oral) dated 31.08.2024, passed in WP(C) No. 1476/2024, whereby the learned Single Judge interfered with an order dated 21.09.2023 of the Registrar of Co-operative Societies, Assam.

3. By the order dated 21.09.2023, impugned in the writ petition, the Registrar of Co-operative Societies, Assam, declined to approve the Annual General Meeting(AGM)/Election for the constitution of the Board of Directors of Meherpur Krishnapur Co-operative Society Ltd. held on 18.03.2023 (hereinafter referred to as the Society).

4. The dispute in the present intra-Court appeal thus centres upon the legality of the Annual General Meeting and the election of the Board of Directors of Society on 18.03.2023.

5. The Registrar of Co-operative Societies, Assam, upon examination of the attendance sheet and after hearing the stakeholders, by the impugned order dated 21.09.2023, disapproved the said election. The writ petitioners, who were the beneficiaries of the uncontested election, assailed the aforesaid order in WP(C) No. 1476/2024.

6. The learned Single Judge, by the aforementioned judgment and order (oral) dated 31.08.2024, interfered with the decision of the Registrar on the reasoning that the alleged anomalies were sweeping in nature, no material was shown as to how the uncontested election stood materially affected, and that the complaint filed by the appellant lacked substantiation.

7. The important facts require consideration for proper adjudication of the controversy in a nutshell are to the effect that the Zonal Joint Registrar of Co-operative Societies, Silchar Zone, Silchar, by order dated 17.12.2022, appointed a "One-man Committee" to manage the affairs of the society and to convene the AGM/Election within 90(ninety) days for constitution of a new Managing Committee /Board of Directors in terms of Section 41 (6) of the Assam Co-operative Societies Act, 2007 (hereinafter referred to as the Act, 2007) as the earlier Board failed to held election in terms of section 41(4) of the Act'2007.

8. Thereafter, in a meeting held on 26.12.2022, a resolution was adopted for the correction of the Voters List, fixing the submission of applications for correction of eligible voters and for substitution of the legal heirs in place of dead persons from 14.01.2023 to 31.01.2023.

9. Subsequently, the notice was also published in two local newspapers on 11.01.2023. Some applications for substitution against deceased voters were received. A correction was also

carried out, and a final Voter List was published and approved by the concerned Registrar.

10. Thereafter, the election schedule was notified, providing dates for filing and withdrawal of nominations and for holding the AGM/ Election for 15 Executive Members. 17 Nominations were filed. However, one was withdrawn, two were rejected, leaving 14 valid nominations.

11. Prior to the scheduled meeting, the appellant submitted a complaint to the Minister of the Co-operation Department, alleging irregularities in the issuance of the notice, the existence of deceased shareholders, and the non-publication of the Voter List.

12. On the scheduled date, initially, the AGM was adjourned for want of quorum; however, it was subsequently held, quorum having been achieved. As 14 valid nominations were received against 15 posts, all 14 candidates were declared elected uncontested, and the certificates of election were also issued. The observer forwarded the proceedings to the Assistant Registrar of Co-operative Societies, Silchar.

13. Thereafter, the Registrar of Co-operative Societies, Assam, in its order dated 03.04.2023, rejected the aforesaid proceeding, alleging violations of principles of natural justice.

14. A writ petition, being WP(C) No. 2052/2023, was filed by the returned candidates, and this Court set aside the order dated

03.04.2023 (supra) and remanded the matter for fresh consideration after hearing the parties.

15. Upon remand, the elected candidates pointed out statutory compliance and the appellant's silence under the prescribed statutory remedies. However, the Registrar of Co-operative Societies, Assam, by order dated 21.09.2023, again set aside the AGM/election on the grounds that several shareholders had signed the attendance sheet twice and that signatures were found against the share numbers of deceased voters.

16. Parallely, a complaint was lodged against the appellant, and the concerned Assistant Registrar concluded that the process by which the share had been offered to her was malicious and mala fide, and directed that her share be discarded and that the voter list be corrected.

17. Again, the aforesaid order dated 21.09.2023 of the Registrar was assailed in WP(C) No. 438/2024 by the returned candidates.

18. They contended that Section 26(3) of the Act, 2007, provides a specific remedy for grievances regarding the inclusion or non-inclusion of members in the Voter List within 10 (ten) days of its publication. It was also contended that despite the publication and approval of the final Voter List, the complainant did not file an appeal within the prescribed period.

19. It was further contended that Rule 27 of the Assam Co-

operative Societies' Election Rules, 2019 (hereinafter referred to as the Rules, 2019) mandates that any election dispute must be filed before the Election Authority within three days of the declaration of the results. No such dispute was instituted. The complaint to the Minister, it was urged, was wholly without jurisdiction, as election matters cannot be adjudicated by the executive authority outside the statutory framework.

20. The election being uncontested and no candidate having been prejudiced or excluded, the Registrar lacked jurisdiction to annul the democratic outcome in the absence of a properly instituted statutory challenge, it was urged.

21. The returned candidates also relied upon the findings of mala fide in the allotment of shares to the complainant, to contend that she lacked locus and clean hands.

22. The principal submission of the appellant is that the attendance sheet of the AGM held on 18.03.2023, according to the Registrar, showed signatures appearing twice for certain shareholders and signatures against the share numbers of deceased members. The findings, it is contended, remain uncontroverted on facts. If the General Assembly was, thus, constituted in breach of Section 29(1), the proceedings of the AGM were void, and the election conducted therein necessarily fell with it.

23. The doctrine of materially affecting the result, it is urged, is

inapposite in a statutory scheme, where election is not a separate polling exercise but an integral facet of a validly convened general meeting. The Separate Voter List was not complied with. Rule 3(h) of the Rules, 2019 was disregarded, and a late notice dated 11.01.2023 was demonstratively backdated as the signatures and the attendance circumstances revealed the absence of genuine publication.

24. The existence of dead voters in the attendance sheet and the Voter List was pressed into service as evidence of systemic infirmity. It was submitted that preparation of a Voter List is *sine qua non* for a lawful election and that certification by subordinate authorities cannot override the Registrar's quasi-judicial satisfaction. Reliance was placed upon **S. N. Mukherjee Vs. Union of India** reported in **[(1990) 4 SCC 594]**.

25. Though no separate appeal has been preferred by the Registrar, the learned Counsel for the Registrar argues that the Registrar acted within the statutory scheme of the Act, 2007 and that once a general meeting is vitiated by participation of ineligible persons, the election held therein cannot survive independently.

26. It is urged that Sections 2(u), 2(v), 29(1) and 41(5) of the Act, 2007 provide that the General Assembly constitutes the highest authority of the society and must consist only of the members eligible to vote. The election of Directors takes place at a general meeting for that purpose. Therefore, the legality of the election is

inseparable from the legality of the general meeting itself. Reliance is placed in **Zora Singh Vs. Shri J. M. Tendon & Ors.** reported in [1971 (3) SCC 834].

27. We now proceed to examine whether the learned Single Judge's interference calls for appellate correction.

28. At the outset, it must be emphasised that the Registrar's jurisdiction to disapprove an AGM/Election is supervisory and quasi-judicial in character. It is not an unstructured administrative discretion.

29. The power, though wide, is circumscribed by the statutory framework and the constitutional discipline of reasoned decision-making.

30. Where the consequence of the exercise of such power is annulment of a democratically constituted body, the threshold of scrutiny is necessarily exacting. The authority must demonstrate on objective material that the statutory infraction is of such character and magnitude as to strike at the root of the proceeding.

31. The impugned order dated 21.0.2023 rests essentially on two observations: first, that some shareholders signed the attendance sheet twice; second, that the signatures were found against the share numbers of deceased shareholders.

32. From these premises, the Registrar concluded that the AGM was held in violation of the Act, 2007 and upheld the earlier order of

disapproval.

33. What is absent is a reasoned linkage between the irregularity alleged and the drastic consequences imposed.

34. The order does not quantify the number of such instances; it does not determine whether those persons were counted for quorum; it does not record whether the alleged duplication or presence of deceased members altered the composition of the General Assembly in a manner affecting its legitimacy; nor does it assess whether the uncontested election was influenced by a tangible sense.

35. Section 29(1) of the Act, 2007, mandates that the General Assembly shall consist of the members eligible to vote.

36. The provision is indeed mandatory. However, the jurisprudential distinction between mandatory compliance and automatic nullity must not be conflated. A statutory mandate may be mandatorily in obligation, yet the consequence of breach may depend upon the nature, extent, and impact of deviation.

37. The Act, 2007, does not declare that any irregular presence ipso facto renders the entire meeting void. In the absence of such an expressed consequence, the authority is required to undertake a fact-based enquiry into materiality. Such enquiry based on fact and record is permissible under Rule 27(a) & (b) of the Rules, 2019. However, no dispute was raised before the election authority.

38. The submission that the doctrine of materially affecting the result has no application because the election contested could not pursue us.

39. Even where an election is uncontested, the question remains whether the decision-making forum, i.e., the General Assembly, was so fundamentally vitiated that it lacks legitimacy, more particularly, when such legitimacy can be determined under Rule 27 of the Rules, 2019 by the election authority. No such power is vested upon the Registrar under the Act, 2007 and the Rules, 2019.

40. The concept of materiality is not confined to competitive polling. It is an expression of a broader principle that the Courts do not invalidate collective decisions for inconsequential or technical deviations.

41. To hold that any infraction, however minimal, obliterates the proceeding, it would be to adopt a rule of automatic invalidation unsupported by the statutory text.

42. In our opinion, the learned Single Judge correctly noted that the Registrar's observation regarding anomalies in the voter list was sweeping in nature. The order of the Registrar does not advert to the process of preparation of the list, whether objections were invited, whether corrections were made, or whether the alleged anomalies were brought to the notice of the "One-man Committee" for rectification.

43. In matters affecting civil consequences, the requirement of reason is not an empty formality.

44. As held in **S. N. Mukherjee** (supra), the recording of reasons ensures application of mind and enables effective judicial review. An order, which merely recites a conclusion without disclosing the analytical process, fails to meet its constitutional standard.

45. The reliance on **Zora Singh** (supra) to sustain the order on a single ground is equally unavailing. For that principle to apply, the surviving ground must itself be independently sufficient and demonstratively sustainable.

46. Here, the foundational ground, the tainted attendance sheet, has not been analysed in a manner capable of sustaining the extreme consequences of annulment. The absence of particulars renders it impossible to assess proportionality or necessity.

47. The argument of the Appellant based on Section 41 (6) of the Act, 2007, alleging that the AGM was held beyond 90 days does not carry the matter any further.

48. The statute does not prescribe that non-adherence to the 90-day period by the One-man Committee, result in automatic nullification, whereas Section 41(4) of the Act, 2007, prescribes consequences when such an AGM is not held by an elected body within the period prescribed.

49. In the absence of any express penal consequence, the time prescriptions are ordinarily directory, unless prejudice or legislative intent to the contrary is established. Neither any material is shown nor any prescription under the statute to indicate that one day deviation subverted the statutory objects of having an elected body or prejudiced any member. In this regard, it is important to record that an One-man Committee is prescribed in a situation where the earlier elected body fails to arrange for holding an election before the expiry of the term of their office under Section 42(1) of the Act, 2007. Thus, the object of such a mandate is to get an elected body within a prescribed period. Therefore, reading a penal consequence on such failure without any express provision may result in further delay in getting an elected body to run the Society.

50. Similarly, the allegations regarding non-publication of the Voter List and backdating of notices were not conclusively determined by the Registrar upon evidentiary examination. There is no detailed articulation in the impugned order. The judicial review cannot sustain an order founded on conjectural assumptions or unarticulated reasons.

51. The Registrar, being the apex statutory authority, must act with heightened responsibility. His conclusions must be supported by discernible reasoning and objective data.

52. The record discloses that the electoral process was initiated

in accordance with the statutory calendar notified by the competent authority.

53. The membership register stood finalised, objections, if any, were invited in the ordinary course, and the election was conducted under the supervision of the statutory functionaries.

54. As recorded hereinabove, the statutory scheme under the Act, 2007, and the Rules, 2019, is a self-contained code governing electoral disputes within co-operative societies.

55. It provides a pre-election remedy for Voter List grievances under Section 26(3); a post-election remedy for election disputes under Rule 27, prescribing timelines that ensure certainty and finality and power to the election authority to enquire into the dispute based on relevant records and pass necessary orders. Admittedly, the Registrar is not the election authority.

56. The appellant neither objected contemporaneously to the alleged non-publication of the Voter List nor sought recourse to the statutory remedies available under the Act, 2007. It is only after the outcome proved unpalatable that the challenge was made by the appellant before the Departmental Minister, who in turn forwarded the same to the Registrar.

57. Such conduct attracts the well-settled principle that one who takes a calculated chance in a process, he/she cannot thereafter assail it on the grounds that were available at the inception.

58. The doctrine of approbation and reprobation stands cruelly attracted in the present case. Even the complaint was addressed to a forum lacking adjudicatory competence, followed by an administrative action that sought to settle an uncontested election.

59. It is also necessary to bear in mind that the co-operative societies, though subject to statutory regulation, embody democratic self-governance; interference with an elected body is not to be lightly undertaken.

60. Supervisory power of the Registrar exists to correct illegality, not to supplant collective will. The principle of proportionality, now firmly embedded in administrative law, requires that measures adopted be commensurate with the mischief sought to be remedied.

61. Annulment of the entire AGM/Election, without demonstrating that the irregularities were pervasive and outcome-determinative, fails that test.

62. In appellate jurisdiction, particularly in an intra-Court appeal, interference with the discretionary and reasoned exercise of the jurisdiction by the learned Single Judge is warranted only upon demonstration of perversity, misapplication of law, or patent error; we found none here.

63. The learned Single Judge examined the records, evaluated the reasoning of the registrar, and concluded that the order was

not supported by sufficient material particulars. We find no perversity or legal infirmity in that conclusion.

64. The autonomy of co-operative institutions must be harmonised with statutory supervision. Harmony is preserved not by mechanical annulment but by reasoned, evidence-based intervention.

65. In the present case, the Registrar's order does not disclose the degree of analysis required to sustain the drastic consequences imposed. The interference by the learned Single Judge is therefore justified.

66. For the reasons and upon an independent reappraisal of the statutory scheme and the record, we affirm the judgment and order(oral) dated 31.08.2024, the writ appeal fails and is, accordingly, dismissed.

67. No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant