

**IN THE COURT OF THE CIVIL JUDGE,  
DIBRUGARH**

**Misc.(j) Case No. 61 of 2022  
(In Title Suit No. 101 of 2022)**

Shri Dipak Dowarah  
.....**Petitioner**

-VS-

- (1) The President  
Managing Committee, Jal Jeevan Mission (JJM).  
No.2 Madhakali Gaon, Ward No.6,  
80 No.,Naharani Gaon Panchayat, Moran Sub-Div  
(P.H.E.),  
P.O. & P.S. Khowang, District Dibrugarh (Assam)  
(785675).
- (2) Smti. Niharika Saikia Hazarika,  
Presently officiating as the President of the  
Managing Committee of the above named JJM,
- (3) The Secretary  
Managing Committee, Jal Jeevan Mission (JJM)  
No.2 Madhakali Gaon, Ward No.6,  
80 No.,Naharani Gaon Panchayat, Moran Sub-Div  
(P.H.E.),  
P.O. & P.S. Khowang, District Dibrugarh (Assam)  
(785675).
- (4) Shri Dipu Gogoi,  
Presently officiating as The Secretary of the  
Managing Committee of the JJM.

.....**Opp.Parties.**

  
**Civil Judge  
Dibrugarh**



Present : Smti. Monalissa Das,  
Civil Judge, Dibrugarh

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**ORDER**

**08.04.2022**

This Misc. case arose out of a petition bearing No.1128/22 filed by the Plaintiff/Petitioner under Order XXXIX Rule 1 and 2 and Section 151 of C.P.C.

The brief of the Petitioner's case is that the the village of Petitioner was granted with the Scheme of Jal Jeevan Mission under Prime Minister's Scheme and at the time of operation of the said Scheme a public meeting was held under the President ship of Sri Kalpendra Konwar in which the Petitioner was appointed as the Operator of the Machine House after adopting a Resolution and a certificate to that effect was also issued in favour of the Petitioner dated 19.12.2021 and since 20.12.2021 the Petitioner is operating the machine house to the satisfaction of all concerned by duly maintaining a Register. The Petitioner further stated that on



  
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12.03.2022 the Opposite Parties without any reason and show cause notice stopped the Petitioner from operating the Machine House which caused heavy loss to the Petitioner. The residents of the said village also raised a complaint to it but the Opposite Parties did not pay any heed to it. Hence, the Petitioner filed the instant case praying to restrain the Opposite Parties from entrusting the said job to any one else other than the Petitioner and also to allow the Petitioner to continue operating the water machine as before.



Opposite Parties contested the Case by filing Written Objection wherein they have denied all the allegations laid down by the Petitioner and contended that although a meeting was held as stated by the Petitioner which was chaired by Kalpendra Konwar, President but there was no discussions and resolution adopted regarding appointment of Petitioner as Machine Operator. Moreover, the certificate issued by the President Kalpendra Konwar and village Pradhan Monsur Ali does not hold any strength to appoint a person in a

  
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Government job. The Opposite Parties further stated that the pump-machine was generally operated by Sri Ajit Baruah, an employee of Public Health Engineering Department. The Opposite Parties further stated that for repairing of pipe lines the Development Committee of Jal Jeevan Mission with the help of Public Health Engineering Department issued a public notice for complete shut-down of the water supply till completion of the repairing of water pipe lines. The Opposite Parties further stated that on 19.03.2022 a general meeting was held as per guideline prescribed by the Chief Executive Officer, Zilla Parishad, a new committee was formed and accepted by the Chairperson and therefore, the Petitioner has no legal status to file a case seeking injunction from old committee which will be non-functus if injunction is granted. Hence, prayed for dismissal of the instant Misc. Case.

Neither side examined any witnesses.

Heard learned Counsel for both the sides and also perused the materials available on record.

  
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There is no dispute that refusing or granting injunction is governed by three well settled principles :-

- (i) Whether the Petitioner has a strong prima-facie case to go to trial?
- (ii) Whether irreparable loss and injury is likely to be caused to the Petitioner which cannot be compensated in terms of money?
- (iii) Whether the balance of convenience lies in favour of the Petitioner ?

So far as the first principle of granting injunction is concerned the prima-facie case does not mean that the Court should examine the merits of the case closely and come to a conclusion that the Petitioner has a strong prima-facie case in which he or she is likely to succeed. To establish a prima-facie case the Petitioner is to show that he has a serious question to be tried as to existence of his right as to matter in dispute which he alleges and can satisfy the Court that the matter in dispute requires to be protected in its actual physical



  
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condition till final disposal of the main suit.

In the instant case from the pleadings of both the sides it is seen that Petitioner stated that he was appointed as the Operator of the Machine House after adopting a Resolution and a certificate to that effect was also issued in favour of the Petitioner dated 19.12.2021 and since 20.12.2021 the Petitioner is operating the machine house to the satisfaction of all concerned by duly maintaining a Register. The Petitioner further stated that on 12.03.2022 the Opposite Parties without any reason and show cause notice stopped the Petitioner from operating the Machine House which caused heavy loss to the Petitioner which shows that undoubtedly the Petitioner has a strong prima-facie case to go to the trial and has a serious question to be tried after appreciating the evidence during trial at length. But on thorough perusal of documents as well as the Case Record it is seen that if the injunction as prayed for is not granted it will no way cause prejudice to the Petitioner as because if after trial at length the Petitioner succeeds to substantiate his



  
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case the Petitioner can always be compensated in terms of money and further if the injunction as prayed for is not granted the subject matter of the suit will not get frustrated on the contrary if the injunction as prayed for is granted to the Petitioner it will definitely cause prejudice to the Opposite Parties and would also hamper the smooth functioning of the Water Pump and other functions carried out by the newly appointed Committee. Opposite Parties stated that the pump machine is operated by one Sri Ajit Baruah who is an employee of Public Health Engineering Department. Moreover, the Petitioner did not give the Court an opportunity to hear the President Sri Kalpendra Konwar 80 No. Naharani Gaon Panchayat and Monsur Ali, Gaon Pradhan as to under what capacity and authority they have appointed the Petitioner as Water Pump Operator.

**In view of the discussions made above, this Court is of the view that other two ingredients viz. Balance of convenience and irreparable loss and injury also lies in favour of the Petitioner even in the case of not**



  
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**granting the injunction.**

Hence, the prayer of the Petitioner made through the instant Misc. Case is hereby rejected.

Hence, instant Misc. Case is hereby disposed off on contest.

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08/04/2022  
Civil Judge, Dibrugarh

**Civil Judge  
Dibrugarh**