

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 157 OF 2015

Mr. Patrik Savio Marcelino Almeida,
Major in age
Resident of House No. 1698/1,
Gumal vaddo, Anjuna,
Bardez, Goa. Petitioner.

Versus

1. Mr. Devanand Vasudev Shirodkar,
Major in age,
Resident of house No. 1079/2,
Mazal Vaddo, Anjuna,
Bardez, Goa.
2. Mr. Agnelo Sebastian Britto,
Major in age,
Resident of House No. 1012,
Peddem, Anjuna,
Bardez, Goa.
3. Mr. Danson Joaquim A.G. D'Souza,
Major in age,
Resident of House No. 967,
Peddem, Anjuna,
Bardez, Goa.
4. Mr. Dnyaneshwar Shabi Shirodkar,
Major in age,
Resident of House No. 1071/2,
Sim waddo, Anjuna,
Bardez, Goa.
5. Mr. Domingos Vincent Antonio Pereira,

Major in age
Resident of House No. 677,
Demello waddo, Anjuna,
Bardez, Goa.

6. Mr. Domnick F. V. Felix Mendes,
Major in age
Resident of House No. 705,
Praies waddo, Anjuna,
Bardez, Goa.
7. Mr. Janardhan Jaidev Shirodkar,
Major in age
Resident of House No. 959,
Peddem, Anjuna,
Bardez, Goa.
8. Mr. Peter Jose D'Souza,
Major in age,
Resident of House No. 909,
Monteiro waddo, Anjuna,
Bardez, Goa.

...Respondents.

Mr. V. Menezes and Ms. V. Shetye, Advocates for the
Petitioner.

Mr. Somnath B. Karpe, Advocate for Respondent no.1.

Coram:-N. M. JAMDAR, J.

Date:- 13 March 2015

ORAL ORDER :

By this petition, the petitioner challenges the order
passed by Administrative Tribunal of Goa in Panchayat

Election Petition No. 28 of 2012 dated 11 December 2014 rejecting the application filed by the petitioner for amendment of additional written statement.

2. The petition arises from Election Proceedings. The Writ Petition No. 480 of 2013 was filed by the petitioner in this Court challenging the order whereby the application for amendment of the petition filed by respondent no.1 was allowed. While disposing of the petition, this Court had observed that the amendment was rightly granted and no prejudice will be caused to the petitioner and the petitioner would get an opportunity to file an additional written statement. Thereafter the petitioner made an application for amendment of the additional written statement, which was already filed without prejudice, pending the decision of this Court in Writ Petition No. 480 of 2013. By the impugned order the said application was rejected. The learned Judge observed that by way of amendment only questions of law were sought to be incorporated and since the burden was on the respondent no.1, the amendment was not necessary.

3. The learned Counsel for the petitioner submitted that if the petitioner takes up the grounds raised in the amendment, during the course of arguments or for the purpose of preliminary issue, then objection would be raised by the respondent no.1 that there are no pleadings. The learned Counsel for respondent no.1 submitted that this apprehension is unwarranted as there are adequate pleadings already on record and even if, an argument based on these grounds is

made, it will be not be objected only on the ground that there are no pleadings. In view of the statement, learned Counsel for the respondent there is no cause for interference with the impugned order, as the petitioner is not prejudiced.

4. The learned Counsel for the petitioner submitted that the petitioner is desirous of making an application for framing a preliminary issue, based on the grounds taken in the amendment. He submitted that the present application which is filed, will be withdrawn and fresh application will be filed. If such fresh application is filed, it will be decided on its own merits. It is not to be construed that this Court has granted liberty to the petitioner nor there is any direction to the Tribunal to take up the matter as preliminary issue and it is left to the discretion of the Tribunal to be exercised as per law. The learned Counsel for respondent no.1 has already stated that if, such an application is made, it will not be opposed only on the ground that there are no pleadings, however, the application will be contested on other available grounds. The learned Counsel for the petitioner is also agreeable to this arrangement. In view of this consensus between the parties, no further orders are required to be passed. The petition is accordingly disposed of in above terms.

N. M. JAMDAR, J.

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