

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 164 OF 2016

The Body of Members (Mazania)
Shree Rudreshwar Devasthan,
Harvalne, Sankhalim, Bicholim, Goa,
Through its duly elected attorney
Having his office at Office of Managing
Committee of Shree Rudreshwar Devasthan,
Harvalne, Sankhalim, Bicholim, Goa.

... Petitioner

V e r s u s

1. The Collector of North Goa District &
Director of Civil District Administration,
Civil Administration BGRanch, Collectorate Bldg.,
Panaji, Goa, 403 001.
2. State of Goa,
Through its Chief Secretary,
Secretariat, Alto Porvorim,
Bardez, Goa.
3. The Administrator of Devalayas,
Bicholim Taluka, Office of Mamlatdar of
Bicholim, Bicholim, Goa.
4. Adv. Pandharinath Laxman Mapari,
Major, married/unmarried, occupation
Resident of Shri Chamunda Prasad,
House no. 1792/3, Vidhyanagar,
Alto Porvorim, Goa.
5. Ganoo Vast
Major, occupation,
Resident of House no. 148,
Talwada, Quirim, Pernem, Goa.
6. Vidhyadhar Naik,
Major, businessman,
Resident of Near Joggers Park,
VMCA, behind Directorate of Sports,
Campal, Panaji.

... Respondents

Mr. Sudin Usgaonkar, Senior Advocate with Ms. Vinita Palyekar, Advocate for the
Petitioner.

Mr. A. N. S. Nadkarni, Advocate General with Mr. D. Lawande, Government

Advocate for the Respondent nos. 1 and 2.

Mr. V. R. Tamba with Mr. S. Malkarnekar, Advocates for the Respondent nos. 3 to 6.

Coram :- **F. M. REIS,**
 K. L. WADANE, JJ.

Date : **11th February, 2016**

ORAL JUDGMENT (Per F. M. Reis, J.)

Heard Shri Sudin Usgaonkar, learned Senior Advocate appearing for the Petitioner, Mr. A. N. S. Nadkarni, learned Advocate General appearing for the Respondent nos. 1 and 2 and Mr. Tamba, learned Counsel appearing for the Respondent nos. 3 to 6.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the Respondents waives service.

3. The above Petition, inter alia, takes exception of an Order dated 15.01.2016 passed by the Collector, North Goa District, Director of Civil District Administration, whereby the elections statutorily fixed on second Sunday of February i.e. 14.02.2016 of the Managing Committee's Devasthan, have been ordered to be postponed.

4. Mr. Sudin Usgaonkar, learned Senior Advocate appearing for the Petitioner, has submitted that the impugned Order passed by the learned Collector is without any jurisdiction nor there are any powers on the Collector to postpone such elections which are statutorily fixed. Learned Senior Advocate further submits that the recitals of the said Order suggests that the impugned Order was passed

based on some complaints lodged by the Respondent nos. 3 to 6 with regard to the catalogue of the Mahajans prepared by the Petitioners. Learned Senior Advocate further submits that the objections, if any, in connection with such catalogue are to be raised in terms of Articles 23 to 26 of the Devasthan Regulation. Learned Senior Advocate further points out that the elections which have been statutorily fixed in terms of the Devasthan Regulation in the second Sunday of February, cannot be postponed under any circumstances. The learned Senior Advocate as such pointed out that the impugned Order be quashed and set aside and the elections be permitted to be held in terms of the Devasthan Regulation.

5. On the other hand, Shri A. N. S. Nadkarni, learned Advocate General appearing for the Respondent nos. 1 to 3, has submitted that the powers to postpone the elections by the Government or the Administrator have been well settled by the Division Bench of this Court in the Judgment reported in **2002(1) Bom. C. R. 352** in the case of **Ravindra Subraria Kamat & Ors. vs. Mamlatdar & Administrator of Devalayas & Ors.** The learned Advocate General further submits that the Collector being the Head of the Civil Administration, can pass such Orders as, according to him, the Mamlatdar, who is otherwise the Administrator is sub-ordinate to the office of the District Collector. Learned Advocate General further pointed out that the Petitioners can always approach the Collector with their grievances and the Collector shall adjudicate on such objections to the complaints lodged by the Respondent nos. 3 to 6 after hearing all the concerned parties in accordance with law. Learned Advocate General as such pointed out that there is no infirmity in the impugned Order passed by the Collector and, as such, the Petition be rejected.

6. Shri Tamba, learned Counsel appearing for the Respondent nos. 3 to 6, has submitted that the Respondents have objected to the catalogue as, according to him, such catalogue has not been prepared in terms of the Devasthan Regulation. Learned Counsel further pointed out that as such, the learned Collector was justified to pass the impugned Order.

7. We have considered the submissions of the learned Counsel appearing for the respective parties. We have also gone through the records. As far as the contention of Mr. Sudin Usgaonkar, learned Senior Advocate appearing for the Petitioner that the elections which have been statutorily fixed in terms of the Devasthan Regulation, cannot be accepted, we find that in view of the ratio laid down by the Division Bench of this Court in the case of **Ravindra Subraria Kamat & Ors. vs. Mamlatdar & Administrator of Devalayas & Ors.** (supra), the said cannot be accepted. As far as the remaining contentions of Mr. Usgaonkar, learned Senior Advocate appearing for the Petitioner, we find that postponing the elections blankly without fixing a particular date is not prima facie justified in the facts and circumstances of the case when the Devasthan Regulation itself contemplates a fixed date to hold such elections. The facts of the case of **Ravindra Subraria Kamat & Ors. vs. Mamlatdar & Administrator of Devalayas & Ors.** (supra), reveal that there were exceptional exigencies that led to the postponement of the elections. In such circumstances, we find that a date would have to be fixed while postponing the elections of the concerned Devasthan. Hence, after hearing the learned Counsel appearing for the respective parties, we fix a date for the elections of the concerned Devasthan as 28.02.2016 to be conducted in accordance with law.

8. As far as the contention of Mr. Tamba, learned Counsel appearing for the Respondent nos. 3 to 6 is concerned, we find that without going into the correctness or otherwise of the contentions raised as to whether the learned Collector has jurisdiction in terms of the Devasthan Regulations, we find it appropriate to direct the Mamlatdar, who admittedly is the Administrator of the concerned Devasthan, to examine the objections raised by the Respondent nos. 3 to 6 dated 11.01.2016 and 12.11.2015, after hearing the Petitioners and all other concerned parties in accordance with law.

9. The parties are directed to appearing before the learned Mamlatdar of Bicholim, tomorrow i.e. 12.02.2016 at 10.00 a.m. and abide by its further directions. All contentions of both the parties on merits are left open. The Mamlatdar shall take a decision of such complaint as expeditiously as possible, in any event, within one week from the date of appearance before the Mamlatdar.

10. Needless to say, the parties shall co-operate with the learned Mamlatdar to expeditiously dispose of the said objections raised by the Respondent no. 3. The impugned Order dated 15.01.2016 stands modified accordingly.

11. Rule stands disposed of in the above terms.

K. L. WADANE, J.

F. M. REIS, J.

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