

IN THE HIGH COURT OF BOMBAY AT GOA**MISC. CIVIL APPLICATION NO. 384 of 2018****IN****WRIT PETITION NO.533 of 2015**

Shri Premanand P. Naik & Ors.

.... Applicants

V/S

Shree Shantadurga Education Society & Ors.

...Respondents

Mr. J.A. Lobo, Advocate for the Applicants.

Ms. Susan Linhares, Additional Government Advocate for the Respondents
No.2 & 3.**Coram:- M. S. SONAK, J.****Date:- 8th May 2018****P.C.:**

Heard Mr. J.A. Lobo, learned Counsel for the applicants and Ms. Susan Linhares, learned Additional Government Advocate for the respondents no.2 & 3.

2. By this Civil Application in a disposed off petition, the applicants seek the following reliefs :

(a) To quash and set aside the Order dated 04.05.2018.

(b) To direct the learned Returning Officer to act in accordance with the terms of reference as given vide Order dated 27/08/2015 passed by this Hon'ble Court read with the minutes of order.

(c) To stay the effect and operation of order dated 04.05.2018.

(d) Ad-interim Ex-parte relief in terms of prayer (c).

(e) Any other and further orders this Hon'ble Court deems just in the facts and circumstances of the present case.

3. Mr. Lobo, the learned Counsel for the applicants contends that in terms of the minutes of the order which stand incorporated in the order dated 27/08/2015, by which the main petition came to be disposed off, the Returning Officer appointed by the consent of the rival parties was required to discharge certain functions as specified in the minutes, and further such functions had to be discharged in terms of Rule 46 of the Goa School Education Rules, 1986 (said Rules). Mr. Lobo submits that the present Returning Officer has not at all complied with the directions as are set out in the minutes and the exercise undertaken by the Returning Officer is also not consistent with the provisions of Rule 46 of the said Rules. Mr. Lobo contends that the Returning Officer, by making the impugned order dated 4/05/2018 has virtually left the proceedings in a State of a limbo and there is no absolute clarity as to how the elections are to proceed further. Mr. Lobo submits that earlier when certain difficulties were encountered in the matter, the parties had filed Misc. Applications in this Court and secured appropriate directions. On these grounds, Mr. Lobo submits that the reliefs applied for in the present Civil Application be granted, in particular, Mr. Lobo presses for

relief in terms of prayer clause (b) as aforesaid.

4. As noted earlier, the main Writ Petition No.533/2015 already stands disposed off by order dated 27/08/2015. By taking up Misc. Civil Applications in a disposed off petition, ordinarily, it is impermissible to seek substantive reliefs like quashing of orders made by the Returning Officer. In case, there is any grievance as regards the orders made by the Returning Officer, the parties are always at liberty to take out substantive proceedings before the appropriate forum in order to question such orders. On this short ground, the present application is not being entertained.

5. However, liberty is granted to the applicants to take out substantive proceedings before the appropriate forum to quash the order dated 4/05/2018 made by the Returning Officer. It is made clear that this Court has not adverted to the merits of the matter and therefore, all contentions of all parties are specifically left open.

6. With the aforesaid liberty, the present Miscellaneous Civil Application is disposed off.

M. S. SONAK, J.

NH