

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO.716 OF 2016***

Rajendra T. Chodankar ... Petitioner.

Versus

Govt. of Goa

Through Chief Secretary & Ors ... Respondents.

Mr. Joaquim Godinho, Advocate for the Petitioner.

Mr. Deep D. Shirodkar, Addl. Government Advocate for Respondent Nos.1,2,3,7 & 8.

Mr. R. Menezes, Advocate for Respondent Nos.5 and 6.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 15 March 2018.

P.C. :

By this petition, the Petitioner has sought to quash and set aside the order dated 8 June 2015 and the notice dated 21 August 2016 issued by Respondent No.3-Assistant Registrar of Co-operative Societies.

2. The Petitioner is a member of Respondent No.4-Co-

operative Housing Society. The Petitioner is aggrieved by the election held to the Managing Body of Respondent No.4-Society. One of the grounds on which the Petitioner seeks to assail the election is that the Respondents-Authorities have not adhered to the mandate under the Constitution of India in respect of providing for reservation.

3. A preliminary objection is raised by the learned counsel for the Respondent Nos.5 and 6 and the learned Additional Government Advocate that the Petitioner has an adequate alternate remedy in the form of raising a dispute before the Co-operative Tribunal under Section 83 of the Goa Co-operative Societies Act, 2001. Reliance is placed by the learned counsel for Respondent Nos. 5 & 6 on the decisions of *K. K. Shrivastava v Bhupendra Kumar Jain*¹, *Gujarat University v N. U. Rajguru*² and *Aselmo Furtado and others v State of Goa & others*³. It is the contention of the learned counsel for the Petitioner that the issue raised by the Petitioner may not fall within the ambit of Section 83.

4. Section 83 of the Act of 2001 has been amended on 30 September 2014 and sub-section (1) has been inserted thereon which

1 1977 DGLS (SC) 134

2 1987 DGLS (SC) 807

3 2017 DGLS (Bom.) 332

reads thus:

“Notwithstanding anything contained in any other law for the time being in force, any dispute touching the election to the Board of Directors or office bearers of society shall be referred by any of the parties to the dispute, to the Co-operative Tribunal within a period of 30 days from the date of declaration of the result of the election.

Provided that, the Co-operative Tribunal may entertain such dispute after expiry of such period if the party aggrieved satisfies the Co-operative Tribunal that he had sufficient cause for not referring the dispute within aforesaid period.”

A bare perusal of this provision indicates that any dispute touching the election to the Board of Directors of the society can be entertained by the Co-Operative Tribunal.

5. What ultimately the Petitioner seeks to agitate is the dispute regarding the election to the Board of Directors. That the authorities have not followed the Constitutional mandate is one of the grounds on which the Petitioner has based his challenge. In the case of *Aselmo Furtado*, the Division Bench of this Court held that even the question regarding the validity of the bye-laws can be considered

by the Tribunal.

6. We therefore, see no reason why the Tribunal cannot be looked into the questions raised by the Petitioner. If the Tribunal comes to the conclusion that the Authorities have not followed the Constitutional mandate as alleged, then the Tribunal may grant the very same relief that has been sought for in this petition. Therefore, in view of availability of this alternate remedy, the Writ Petition need not be entertained.

7. The learned counsel for the Petitioner submits that there is a period of limitation provided under Section 83. Our attention is drawn to the proviso to sub-section (1) of Section 83 which confer powers on the Tribunal to condone the delay in suitable cases.

8. In these circumstances, keeping all contentions open, the Writ Petition is disposed of.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.