

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 363/2019

1. Shree Gopalkrishn Multipurpose
Co-operative Society Ltd.,
Through its chairman, Mr. Pramod
V. Zuvenkar, duly authorized vide
Resolution dated 20.03.2019, having
its office at Behind Fish Market,
Muxer, Velim, Salcete, Goa.

2. Mr. Prabhanjan Kinjwadekar,
Indian National, major of age,
r/o Vithalapur, Sankhali, Goa.

... Petitioners

Vs.

1. State of Goa through the
Chief Secretary, having
office at Secretariat,
Porvorim, Goa.
2. The Registrar of Co-operative
Societies,
Government of Goa,
Having office at Sahakar
Sankul, EDC Complex,
Patto, Panaji, Goa.
3. The Goa State Co-operative
Bank Ltd.,

Through its Managing
Director, having office at
Sahakar Sankul, EDC
Complex, Patto, Panaji, Goa.

... Respondents

Mr. Gaurang D. Panandiker, Advocate for the Petitioner.

Mr. Dattaprasad Lawande, Advocate General with Mr. Pravin Faldessai, Addl. Government Advocate for Respondent Nos. 1 & 2.

***Coram : R. D. Dhanuka &
Prithviraj K. Chavan, JJ.***

Date : 2nd May 2019.

Oral Judgment (R. D. Dhanuka, J)

By this petition filed under Article 14 and 226 of the Constitution of India, the petitioner prayed for writ of mandamus against the respondent no. 2 to replace the present committee of Administrators with representatives from the Member Societies of the Respondent No.3 bank and for other reliefs.

2. On 22.09.2017, the Registrar of Co-operative Societies, Panaji, passed an order under Section 67A(1)(e) of the Goa Co-operative Societies Act, 2001 thereby holding that the contingency

contemplated by Section 67 A(1)(e) was existing in the matter and it shall not be necessary to publish said notice in view thereof.

3. The learned Registrar of Co-operative Societies appointed three persons on the Committee of Administrators of the Goa State Cooperative Bank Ltd., Panaji. It is made clear in the said order that the terms of the above Committee shall be for a period of six months from the date of taking over the charge.

4. By order dated 23.03.2018 passed by the Registrar of Co-operative Societies, the term of the Committee of Administrators of the Goa State Co-operative Bank Ltd., Panaji was extended for a further period of six months with effect from 25.03.2018 to 24.09.2018. It was further provided in the said order that it shall be ensured that the committee shall make necessary arrangements to constitute a new Board of Directors in terms of the provisions of the bye-laws for enabling them to enter upon office within the extended period of six months.

5. On 09.10.2018, the Registrar of Co-operative Societies passed another order thereby granting ex-post facto extension to the Committee of Administrators for a further period of one year

with effect from 25.09.2018 to 24.09.2019. It was made clear that the committee shall make necessary arrangement to constitute a new Board of Directors in terms of the provisions of the bye-laws for enabling them to enter upon office within the extended period of one year.

6. The petitioners strongly opposed the further extension of one year as without jurisdiction on various grounds.

7. The respondent no. 2 has filed an affidavit in this petition. The learned Advocate General for the State of Goa and respondent No. 2 states that when the Committee of Administrators was appointed on 27.09.2017, the accumulated loss suffered by the bank was to the tune of about Rs. 111 Crores. He states that the Government was required to pump Rs 20 crores in the bank. It is submitted that during the period of the Committee of Administrators being in force, the total accumulated loss of Rs. 111 Crores was brought down to Rs.22 crores. It is submitted by the learned Advocate General that till such remaining loss is converted into profit, the petitioner cannot insist fresh elections of the directors of the bank.

8. The learned Counsel for the petitioner on the other hand submits that the respondent nos. 1 and 2 had exercised powers under Section 67 A(I)(e) of the Act. The powers were exercised for a period of six months while appointing the Committee of Administrators. He invited our attention to the two orders of extension. He submitted that in the two orders of extension, the learned Registrar of Co-operative Societies had stated that it shall be ensured that the Committee shall make necessary arrangements to constitute a new Board of Directors in terms of the provisions of the Bye-laws.

9. The learned Counsel invited our attention to Section 67(3) of the Act and submits that as per said provision, the said board of directors and the committee appointed has to make necessary arrangements to constitute a new Board of Directors in terms of the provisions of the Bye-laws for enabling them to enter upon the office and fill the vacant posts within such period or extended period the Registrar may specify.

10. Learned Counsel also placed reliance on Section 77 of the Act and stated that such period of suspension could not be more than six months and as regards that, the learned Registrar has

granted two extensions of six months and one year. He submits that by granting extension again and again, the entire democratic process has been put to hold.

11. A perusal of order dated 22.09.2017 indicates that the powers were exercised by the Registrar of Co-operative Society under Section 67A(1)e) of the Act. The committee of the Administrators was appointed by the said order for the period of six months for taking of charge. By order dated 23.03.2018, extension was granted for a period of six months. Subsequently another extension was granted for a period of one year. In both the extensions, it is made clear that the committee shall make necessary arrangements to constitute a new Board of Directors in terms of the provisions of the Bye-laws for enabling them to enter upon office within the extended period.

12. In our view, the committee of administrator cannot be appointed for an indefinite period. The elections of the board of directors of the petitioner have to be held within the time prescribed. In so far as the submissions of the learned Advocate General that the Committee of Administrators was successful in reducing the accumulated loss of the bank from Rs.111 Crores to

Rs.22 Crores is concerned, we cannot allow the Registrar of Co-operative Societies to continue the control of the management of the bank on this ground.

13. If upon constituting of new board of directors, if Registrar finds any breaches or illegality in the functioning of board, Registrar is empowered to take appropriate action against the board of directors, in accordance with law. In so far as the submission of the learned Advocate General that Rs.20 crores are pumped by the Government in the bank is concerned, if the Government has any claim against the bank, the Government has to take such necessary action to recover the said amount, in accordance with law.

14. In our view, the impugned order of extension more particularly order dated 23.03.2018 and extension order dated 09.10.2018 are totally illegal and contrary to Section 66 read with Section 71 of the Act and thus deserves to be quashed and set aside. We therefore, pass following:

O R D E R

(a) The impugned orders dated 23.03.2018 and 09.10.2018

are quashed and set aside. The respondent No. 2 is directed to hold elections of the Board of Directors of the respondent No. 3 bank, within four months from today without fail. Till such election is held and new management is constituted, the existing arrangement to continue.

(b) Petition is made absolute on the aforesaid terms.

(c) There shall be no order as to costs.

(d) Parties to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

R. D. DHANUKA, J.