

IN THE HIGH COURT OF BOMBAY AT GOA**STAMP NUMBER MAIN NO.2347 OF 2019, MISC. CIVIL
APPLICATION NO.629 OF 2019 & STAMP NUMBER
(APPLN.) NO.2701 OF 2019****STAMP NUMBER MAIN NO.2347 OF 2019**

Shiroda Labour Contract
Co-op. Society Ltd. & Anr. ... Petitioners

V/s.

The State of Goa & Ors. ... Respondents

Mr. Vishnuprasad Lawande and Mr. Parimal S. Redkar,
Advocates for the Petitioners.
Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for the Respondents.

WITH**MISC. CIVIL APPLICATION NO.629 OF 2019**

Prabhanjan Kinjwadekar Applicant

V/s.

The State of Goa & Ors. ... Respondents

Mr. Gaurang D. Panandiker, Advocate for the
Applicant/Intervenor.
Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for the Respondents.

AND**STAMP NUMBER (APPLN.) NO.2701 OF 2019**

The GVM's Staff Co-operative
Credit Society Ltd. Applicant

V/s.

The State of Goa & Ors. ... Respondents

Mr. Vivek Rodrigues and Mr. Vithal Naik, Advocates for the
Applicant/Intervenor.
Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for the Respondents.

**Coram:- M.S. SONAK &
NUTAN D. SARDESSAI, JJ.**

Date :- 26th JULY, 2019

P.C.:

Heard Mr. Vishnuprasad Lawande, learned Advocate for the petitioners. Mr. D. Pangam, the learned Advocate General appears for respondents no.1 & 2.

2. Rule. Mr. Deep Shirodkar, learned Additional Government Advocate waives service on behalf of respondents no.1 & 2.

3. Mr. V.A. Lawande, learned Counsel for the petitioners seeks a direction to respondent no.2 to proceed with the elections, which are now scheduled to take place in the month of September, 2019 without taking into consideration amended bye laws 30(A)10 to 14, which have been impugned in the present petition. In effect, Mr. Lawande, seeks stay of the operation of certified impugned bye laws being bye laws no.30(A)10 to 14.

4. The impugned bye laws were certified way back on 29/09/2017. The respondent nos.1 & 2 have placed on record

the extract of the proceedings of the special General Body meeting held on 27/07/2015, in which, the general body of the Goa State Co-operative Bank Ltd. has in fact approved the impugned bye laws. Despite the lapse of over two years neither the petitioners nor any other aggrieved member/societies chose to avail remedies which are possibly available under the Goa Co-operative Societies Act, 2001 and the Rules made thereunder.

5. Since, for a long time no elections were being held, this Court by its judgment and order dated 02/05/2019 in Writ Petition No.363/2019, had in fact quashed the orders extending the term of the Board of Directors and directed the Registrar of Cooperative Societies to hold elections to the Board of Directors of the Bank within four months from the said date without fail. In terms of the directions so issued, the elections will have to be held on or before 02/09/2019.

6. The grant of any interim relief as prayed for would virtually amount to grant of final relief at this stage itself. Besides, from the contentions raised, prima facie, it cannot be said that the impugned bye laws are totally unconscionable

or ultra vires the parent Act. In order to seek a stay of the operation of the bye laws or a direction to hold elections by ignoring the certified bye laws, the petitioners, have to make out not merely some prima facie case, but a case indicating that the impugned bye laws are manifestly unjust and unconscionable. According to us, no such case is made out in the present case at least at the prima facie stage.

7. Since the elections are now eminent in terms of our directions issued in the Writ Petition No.363/2019, any grant of interim relief would virtually amount interfering with the election process which is eminent. This is an additional reason as to why no interim relief can be granted in the present case.

8. Section 60 of the Goa Co-operative Societies Act, 2001 deals with the issue of disqualification for being a Director. Section 60(3) of the said Act inter alia provides that in order to be eligible for being chosen as director of the board of directors of a society which has been in existence more than two years, a member shall have availed for three years in the preceding period of five years the services of a

society to a minimum level as specified in the bye laws.

9. On perusal of resolution adopted by the General Body of the respondent Bank, in its meeting held on 27/12/2015, it appears that the society has only determined the minimum level of the services to be availed by a person in order to be eligible for being chosen as a Director of the Board. The exercise undertaken by the General Body of the respondent Bank, therefore, prima facie, relates to Section 60(3) of the said Act. In fact, Mr. D. Pangam, learned Advocate General pointed out that minimum level in so far as individuals are concerned, was proposed at ₹2,00,000/- by the General Body of the respondent no.3 Bank. However, the Registrar scaled down the same requirement to ₹1,00,000/-, so that there is greater participation in the co-operation movement.

10. For all the aforesaid reasons, we are satisfied that no case has been made out for grant of any interim relief. Accordingly, motion for interim relief is rejected.

11. Respondents are directed to complete the

pleadings within two months. After the pleadings are complete liberty to apply for fixed date of hearing.

12. There are two intervention applications i.e. Misc. Civil Application No.629/2019 and Misc. Civil Application under Stamp No.2701/2019 taken up by some persons seeking intervention in this petition. The applicants in Misc. Civil Application No.629/2019 oppose grant of any reliefs in this petition, whereas the applicants in Misc. Civil Application under Stamp No.2701/2019 support the grant of reliefs in this petition. Mr. Lawande, learned Counsel for the petitioners states that the petitioners will have no objection if the intervention applications are allowed. Accordingly, the intervention applications are allowed and are disposed of as granted.

13. The petitioner to carry out the necessary amendment to the petition within two weeks from today in order to indicate the names of the intervenors in the cause title to the petition. It is made clear that there will be no separate notice issued to the intervenors since the learned Counsel who now represent them waive service on behalf of

the intervenors. The learned Counsel for the intervenors state that they do not wish to file any affidavits or pleadings in this matter.

NUTAN D. SARDESSAI, J.
NH

M.S. SONAK, J.