

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 867 OF 2019

1. Mr. Trevor Ridge Jude Fernandes, major in age, resident of H. No. 140/A, Poriebhat Verna, Salcete, Goa.
2. Mr. Royson Edwin Da Cost, major in age, resident of H. No. 343, Costa Waddo, Near St. Sebastian Chapel, Majorda, Salcete, Goa. Petitioners

Versus

1. State of Goa, Through the Chief Secretary, having office at the Secretariat, Porvorim, Bardez, Goa.
2. The Administrator of Comunidades of South Zone, Margao, Goa.
3. The Comunidade of Cortalim, having its office at Cortalim, Goa, represented by its Attorney through the Administrator of Comunidades of Salcete and Mormugao, Comunidade Building, Cortalim, Goa.
4. Mr. Shivdas Borkar, Escrivao of the Comunidade of Cortalim, having its office at Chavdir, Cortalim, Goa. } Deleted as per Order dated 18.11.2019
5. Mr. Shripad Pai Patnekar, age 72, resident of H. No. 3/3938, Vidyanagar, Gogol, Margao, Goa. Respondents

Mr. Vivek Rodrigues and Mr. Vithal Naik, Advocates for the Petitioners.

Mr. Manish Salkar, Government Advocate for Respondent Nos. 1 & 2.

Mr. Ketan Morajkar, Advocate for Respondent No. 3.

Mr. Shane Gomes Pereira and Mr. Allan Andrade, Advocates for Respondent No. 5.

Coram:- M.S. SONAK &
C.V. BHADANG, JJ.

Date:- 18th November, 2019

ORAL JUDGMENT: (Per M. S. Sonak, J.)

Rule. Rule made returnable forthwith and at the request of the learned Counsel for the parties.

2. Heard Mr. Rodrigues, the learned Counsel for the petitioners, Mr. Manish Salkar, the learned Government Advocate for respondent nos. 1 and 2, Mr. Morajkar, the learned Counsel for respondent no. 3 and Mr. Gomes Pereira, the learned Counsel for respondent no. 5.

3. In the peculiar facts of the present case, the presence of respondent no. 4 is not necessary. Mr. Rodrigues, the learned Counsel for the petitioners, seeks leave to delete respondent no. 4 from the array of the respondents.

4. Leave is granted. Necessary amendment to be carried out forthwith.

5. The petitioners are the components of Comunidade of Cortalim. They pointed out that elections were held to the Managing Committee of this Comunidade in December, 2018, in which, Smt. Zita Pereira and others were elected.

6. The election of the returned candidates was challenged by respondent no. 5, by taking out appropriate proceedings before the Administrative Tribunal. Admittedly, there is no interim relief granted in this proceedings. Despite the same, the Administrator, instead of installing the returned candidates, has put up a noting that the returned candidates are not to be installed to the Managing Committee of the Comunidade on account of the pendency of the Appeal before the Administrative Tribunal. On the basis of this note, the returned candidates have not been able to take charge of the Managing Committee of the Comunidade.

7. According to us, the note put up by the Administrator is indefensible. As long as there is no interim order made by the

Administrative Tribunal and merely on the ground of the pendency of the Appeal, the Administrator had no authority to block the installation of the elected Committee.

8. On the aforesaid short ground, we set aside the note, which is found at page 16 of the paper book. For the sake of clarity, we mark this note as 'X'.

9. Further, we direct the Administrator of the Comunidade to permit the elected members to assume charge of the Managing Committee of the Comunidade, within a period of one week from today. We, however, clarify that such assumption of charge will be subject to the final orders, which the Administrative Tribunal shall make in the Appeal initiated by the respondent no. 5, questioning the election of such elected members.

10. Rule is accordingly made absolute in the aforesaid terms. There shall be no order as to costs.

11. All concerned to act on the basis of an authenticated copy of the order.

C. V. BHADANG, J.

M. S. SONAK, J.

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