

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.1178 OF 2018**

1. Mr. Yeshwant A. Shirodkar,
major in age,
residing at House No.247/B,
Pilerne, Saligao, Bardez-Goa.
2. Mr. Paulo D'Souza,
major in age,
residing at House No.90/1,
Paliem, Ucassaim, Bardez-Goa.

.... Petitioners

V/s.

1. State of Goa,
through its Chief Secretary,
having its office at Secretariat,
Porvorim-Goa.
2. The Administrator of Comunidades,
North Zone, having its office
at Mapusa, Bardez-Goa.
3. Comunidade of Serula,
through its Attorney,
having its office at
West Coast Residency,
Porvorim, Bardez-Goa.
4. The Police Inspector,
Porvorim Police Station,
Porvorim, Bardez-Goa.

.... Respondents

Mr. Y.V. Nadkarni, Advocate for the Petitioners.

Ms. Gautami Kamat holding for Mr. Nitin Sardessai, Senior Advocate, Amicus Curiae.

Mr. Pravin Faldessai, Additional Government Advocate for Respondents No.1,2 & 4.

Mr. J.A. Lobo, Advocate for Respondent No.3.

Ms. V. Shet holding for Mr. Rohit Bras De Sa, Advocate for the Intervenor.

**Coram :- S. C. GUPTE &
NUTAN D. SARDESSAI, JJ.**

Date:- 4th June 2019

ORAL JUDGMENT : (Per S. C. GUPTE, J)

The subject matter of the present petition concerns elections to the Managing Committee of the Comunidade of Serula for the triennium 2019-2022, which were scheduled to be held on 09/12/2019, and were sought to be postponed. During the pendency of the Writ Petition several orders have been passed by this Court. This Court also noted that after the elections were partly held, further process was disrupted by use of force and strong arm tactics by some miscreants present in the election hall. This Court, accordingly, directed police authorities to investigate the matter. In the premises, though, by its order dated 19/03/2019, this Court, whilst issuing Rule, noted that none of the prayers of the petition survived in view of the fact that the elections to the Managing Committee of the Comunidade of Serula had already been concluded and the new Managing Committee was in place, the petition was kept pending, considering that similar instances of disrupting elections of Managing Committees of Comunidades by extra legal means ought to be prevented. Apropos of the particular

grievance concerning the elections which were the subject matter of the present petition, the authorities were directed to conclude the investigation expeditiously and submit a status report of such investigation in a time bound manner. The authority, namely, the Superintendent of Police, North, Porvorim-Goa, has already filed a status report of investigation carried out in Porvorim Police Station Crime No.17/2019 under Sections 143, 147, 353, 171-C read with Section 149 of IPC. The Status Report indicates that the investigations in the crime, concerning the elections covered by the present Writ Petition, have been completed and a charge sheet has been filed before Judicial Magistrate First Class, Mapusa on 29/04/2018 against five accused and the criminal case is pending trial.

2. The learned Additional Government Advocate appearing for the State also points out that in pursuance of the directions given by this Court in its order dated 06/02/2019, the Registry has served copies of the papers and proceedings in the matter on the Amicus Curiae appointed by the Court. Learned Additional Government Advocate submits that a copy of the status report shall also be furnished to the Amicus Curiae.

3. Considering the Status Report, which indicates that due measures have been taken for investigating and prosecuting the accused, no practical purpose would be served in keeping the present petition pending.

4. It is expected that whenever the elections of Managing Committees of Commuidades are sought to be disrupted by extra legal means, the State will take expeditious steps to investigate and intervene to avert further criminal acts and in appropriate cases prosecute the accused so that these untoward situations are avoided in future.

5. The Writ Petition is disposed off accordingly.

6. Taking into account the allegations against Petitioner no.1 and the circumstance that he had been named in the FIR placed before the Court, this Court deemed it appropriate to direct petitioner no.1 to deposit in this Court a sum of ₹1,00,000/- (Rupees One Lac only) by way of security for costs. This Court had cautioned the petitioners that if ultimately it was found that the petition was prosecuted for oblique motives or that the petitioners had abused the judicial process, the Court

could consider imposing exemplary costs upon the petitioners. Petitioner no.1 has, accordingly, deposited in this Court a sum of ₹1,00,000/- (Rupees One Lac only). As noted above, the prosecution is under way. In case petitioner no.1 is acquitted and discharged in the prosecution, he may have liberty to file appropriate application for withdrawal of the security deposited by the petitioners. Subject to any orders being passed on any such application the amounts deposited by petitioner no.1 in this Court shall be appropriated as costs and suitable directions in that behalf will be passed.

NUTAN D. SARDESSAI, J.

S. C. GUPTE, J.

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