

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.506 OF 2019**

Anand Gopal Gawas ... Petitioner
Versus
The Goa Urban Co-operative Bank Ltd. & Anr.... Respondents

Mr. Arunkumar V. Nigalye and Mr. Omkar V. Kulkarni, Advocates for
the Petitioner.

Coram:- M. S. SONAK, J

Date:- 14th January, 2021

P.C.

Heard Mr. Nigalye, learned counsel for the Petitioner.

2. The challenge in this petition is to the order dated 17th May, 2013 made by the Registrar of Co-operative Societies under Section 82 of the Goa Co-operative Societies Act, 2001 (the said Act) as also the judgment and order dated 5th February, 2019 made by the District Judge-1, North Goa, Panaji dismissing the revision application against the said order dated 17th May, 2013.

3. Mr. Nigalye, learned counsel for the Petitioner submits that there is no finding in the audit report holding the Petitioner responsible for the loss of ₹24,13,842/- allegedly caused to the Co-operative Bank. He submits that in the absence of any such finding, Registrar lacks jurisdiction to make the order under Section 82 of the said Act.

4. Mr. Nigalye in the alternate submits that the Petitioner has raised the dispute with regard to the termination of services by the Bank. Such dispute is pending before the Labour Court. He submits that any adverse findings in the proceedings in pursuance of the impugned order dated 17th May, 2013 might prejudice the Petitioner in pending dispute before the Labour Court. Therefore, he submits that at least until the disposal of the proceedings before the Labour Court, no further inquiries in pursuance of the impugned order dated 17th May, 2013 be permitted.

5. I have considered the above two contentions. I am unable to accept either of them. In the first place, audit report does refer to the loss of almost ₹30,00,000/- to the Bank on account of theft of the said amount. The audit report also speaks about the Petitioner and Prasad Shirodkar being responsible for such theft. In such circumstances, there is no jurisdictional or other error in making the order dated 17th May, 2013.

6. The order dated 17th May, 2013 does not conclusively determine that the Petitioner is responsible for loss of ₹24,13,842/-. This order only appoints Advocate Ghanashyam Pai to inquire into the findings of the audit report and to determine the amount payable by the Petitioner and Prasad Shirodkar. This means that in the course of such inquiry, the Petitioner will have every opportunity of proving his innocence or establishing that the Petitioner was not in any way

involved in the activities which resulted in financial loss to the Bank.

7. The District Judge-1, North Goa, Panaji, in the order dated 5th February, 2019, at paragraph 11 has concluded that the Auditor having held that the Petitioner and Prasad Shirodkar were held responsible for loss of ₹30,00,000/-. It is therefore clarified that these are only *prima facie* findings and ultimately it will be for the Advocate appointed by the Registrar to inquire into the matter and to determine whether the Petitioner and said Prasad Shirodkar were indeed responsible for this loss and only thereafter determine the amount payable by such persons to the Bank.

8. The scope of proceedings under Section 82 and the scope of proceedings before the Labour Court are entirely different. In any case, there is no warrant to stall the proceedings under Section 82 on account of pendency of the proceedings before the Labour Court.

9. Since, there is no jurisdictional error either in making of the order dated 17th May, 2013 or in the judgment and order dated 5th February, 2019 dismissing the revision against the same, no case is made out to entertain the present petition. Therefore, with the clarification as aforesaid this petition is dismissed. There shall be no order as to costs.

M. S. SONAK, J

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TARI AMRUT
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