

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.323 OF 2016

NELSON HEREDIA AND 3 ORS.

... Petitioners

Versus

STATE OF GOA, THROUGH
CHIEF SECRETARY AND 2 ORS.

... Respondents

Mr Preetam Talaulikar, Advocate for the Petitioners.

Ms Susan Linhares, Additional Government Advocate for the
Respondents.

CORAM:

**M. S. SONAK &
VALMIKI SA MENEZES, JJ**

DATE :

25th APRIL 2023

P.C.:

1. Heard Mr P. Talaulikar, learned counsel for the Petitioners and Ms S. Linhares, learned Additional Government Advocate for the Respondents.

2. The challenge in this petition is to the vires of Section 61 of the Goa Co-operative Societies Act, 2001 (the said Act). This challenge was however raised in the context of Petitioners' disqualification as members of the board of directors for the term which has already concluded.

3. Mr Talaulikar agrees that the relief in so far as the restoration is concerned, is now infructuous. Accordingly, the issue of vires of Section 61 of the said Act need not be decided in the abstract. It is well settled that the issue of constitutional validity should normally not be decided as an academic issue.

4. Besides, we find that the Petitioners' Writ Petition No.236 of 2015, in which the Petitioners had challenged the disqualification order dated 08.01.2015 issued against them was also dismissed by this Court on 07.01.2016. After such dismissal, the present petition was filed to challenge the vires of Section 61 of the said Act. We are not too sure whether the issue of vires could have been gone into in the present petition because nothing prevented the Petitioners from raising such an issue in the earlier petition filed by them to challenge their disqualification.

5. For all the above reasons, this petition is disposed of without examining the issue of the constitutional validity of Section 61 of the said Act.

VALMIKI SA MENEZES, J

M. S. SONAK, J