



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3207 OF 2020

1. Vidarbha Konkan Gramin Bank Officers Association bearing Registration No. NGP 5303 under the Trade Union Act, 1926, having its registered office at Chandrapur, Through its General Secretary Shri Rajkumar Ghanshyam Makhija, R/o. Old Warora Naka, Chandrapur, Tq. & Dist. Chandrapur.
E-mail: vkgboa@gmail.com
2. Shri Rajkumar Ghanshyam Makhija General Secretary, Vidarbha Konkan Gramin Bank Officers Association, R/o. Old Warora Naka, Chandrapur, Tq. & Dist. Chandrapur, aged about 68 years
E-mail: makhija_rajkumar@yahoo.com

... Petitioners

Versus

1. Vidarbha Konkan Gramin Bank established under Regional Rural Bank Act, 1976, having its head office at Chandraprasth, 2nd and 3rd Floor, Plot No.6, Dindayal Nagar, Ring Road, Nagpur, Through its Chairman.
2. The Board of Directors, Vidarbha Konkan Gramin Bank, Constituted under the Provisions of Regional Rural Bank Act, 1976, having its head office at Chandraprasth, 2nd and 3rd Floor, Plot No.6, Dindayal Nagar, Ring Road, Nagpur, Through its Chairman

... Respondents

Mr. A.C. Dharmadhikari, Advocate for petitioners.

Mr. Anand Jaiswal, Senior Counsel a/by Ms. Radhika Bajaj, Advocate for respondent Nos.1 & 2.

**CORAM : SMT.ANUJA PRABHUDESSAI, AND
MRS.VRUSHALI V. JOSHI, JJ.**

DATE : 11.12.2023.

ORAL JUDGMENT: (PER: Smt. Anuja Prabhudessai, J.)

Rule. Rule made returnable forthwith. Heard finally by consent of both the learned counsel for the parties.

(2) By this petition, under Article 226 of the Constitution of India, the petitioner seeks to quash and set aside the impugned Circular No.09/27 dated 19.10.2020 and the Policy at Annexure – H, issued by the respondents.

(3) The petitioner No.1 is a Registered Trade Union and majority of the Officers of respondent No.1 – Bank are its members. Respondent No.1 – Bank, through its head office at Mumbai, vide Circular No.09/27 dated 19.10.2020 introduced a “Social Media Policy”, imposing certain restrictions and guidelines for operation of services through Social Media Platform and to build a framework for employees and other individuals performing work for the bank.

(4) The petitioners made several representations requesting immediate withdrawal of the said Social Media Policy on the ground that the policy was framed unilaterally without following

due process of law, that it affects the service condition of the employees and the same is violative of the fundamental rights of the employees. Respondent- Bank did not respond to the representations. Hence, this petition under an apprehension that the respondent-Bank may implement and enforce the policy, which according to the petitioner is arbitrary, illegal and unconstitutional.

(5) Mr A. C. Dharmadhikari, learned counsel for the petitioner submits that the policy changes the regulations as well as the service condition of the employees. Sum and substance of the submissions advanced by learned counsel for the petitioner is that :

(i) The policy compels the employees to respond to whatsapp messages between 8:00 a.m. to 10:00 p.m. and thereby, enhances the working hours upto 14:00 hours in total contravention of Article 21 of the Constitutions of India.

(ii) The right of the employees to make fair criticism is restricted by construing the violation of policy as misconduct, liable for disciplinary action. The do's and dont's of the policy are illegal, arbitrary and violative of Article 19 of the Constitution of India.

(iii) Compelling the employees as well as the ex-employees to be the members of the WhatsApp group and refraining them from leaving the group without permission is illegal and arbitrary.

(6) We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

(7) A perusal of the policy reveals that the same was formulated with the objective to build a framework for all present and ex-employees and other individuals performing work for the Bank, on acceptable use of Social networking applications both on the job and in personal usage situations. Clause 1.1 of the policy stipulates that :

** This policy is intended to help staff to make appropriate decisions about the use of social media such as social media websites, forums, message boards, or comments on web-articles, such as Whatsapp, Twitter, Facebook etc.*

** This policy outlines the standards required for staff to observe when using social media, the circumstances to monitor the use of social media and the related action in respect of breaches of the policy.*

** This policy is intended to adhere to the guidelines issued by RBI, NABARD, IBA & DFS, Govt. of India, from time to*

time and also to comply with the policies / rules framed by our Bank for good governance while using the various Social Media platforms.

(8) It is thus clear that the main purpose of introducing the policy is to take steps to connect employees through official Whatsapp group for easy and prompt communication, monitoring the tasks, basic targets and various campaigns in effective manner.

(9) The affidavit-in-reply, filed by Anil Kumar Shrivastav, the General Manager of the respondent-Bank states that the Bank of India, the sponsored bank of respondent No.1-Bank through its head office at Mumbai has issued a social media policy imposing certain restrictions and guidelines for operation of service through social media platforms and to build a framework for employees and other individuals performing work for the bank. The respondent No.1-Bank adopted the policy with approval of the Board of Directors and the same is on the lines of the social media policy of Bank of India. Further more the same is in consonance with regulation No. 76 of Vidarbha Konkan Gramin Bank (Officers and

Employees) Service Regulation, 2013 which authorizes the Chairman to issue instructions or directions as he may consider necessary for giving effect to or to carry out the provisions of the regulations.

(10) The Policy prescribes certain Do's and Don'ts.

It stipulates that all official users of Social Media including Official Whatsapp group should refrain themselves as far as possible from posting anything before 08:00 a.m. and after 10:00 p.m. The only restriction imposed under this clause is against posting any message or posts between 10:00 p.m. to 08:00 a.m. The policy gives a window of 14 hours i.e. from 08:00 a.m. to 10:00 p.m. to respond to the communication. It neither enhances the working hours of the employees nor does it mandate the employees to necessarily respond to the said communication before or after working hours, except may be in the cases of extreme exigencies. The restrictions for posting any message or communication between 10:00 p.m. to 08:00 a.m. is only for smooth functioning of the group and aimed at not disturbing the personal time of the employees. Hence, the said condition does not violate the regulations or service conditions

of the employees.

(11) The purpose of official WhatsApp group under the social media policy is to post official data and exchange bank related information for quick and effective dissemination of information from both sides. Considering the object of the policy, the mandate to be the members of WhatsApp group or restriction on leaving the group without prior permission cannot be considered to be arbitrary. Further more the policy does not restrict the right of the fair criticism of the policies of the Management. The grievance relating to implementation of the policy/rules or decisions of the bank can always be raised before the Grievance Cell formed under Vidarbha Konkan Gramin Bank -Staff Grievance Redressal Policy and Procedures.

(12) The policy stipulates that “for any misconduct pertaining to Social media including Whatsapp, staff accountable will have to face Bank’s disciplinary action as spelt out in Service Regulations/Settlements.” Learned counsel for the respondent No.1 – Bank states that the policy does not contemplate any separate misconduct, but refers to the acts

constituting misconduct under the regulation. As regards, the grievance of the petitioners that the ex-employees are compelled to be the members of WhatsApp group is unfounded as a perusal of the policy clearly reveals that the members of the group should be employees of the Bank and/or employee of Sponsor Bank on deputation with VKGB with further stipulation that retired/resigned employees/staff ceased to be employees should be removed from OWAG by administrator. It is thus clear that the policy does not include the retired or ex-employees as a members of the official WhatsApp group.

(13) Considering the above facts and circumstances, in our considered view, the policy neither changes the service conditions nor violates fundamental or any other rights of the employees. Hence, the petition is devoid of merits and is accordingly dismissed.

(14) Rule stands discharged. No costs.

[MRS.VRUSHALI V. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI J.]

Prity