

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-CW-56-2020**

Gurudas Sawal & Anr. ... Petitioners

Versus

Joint Nayak & Ors. ... Respondents

Shri Parag Rao, Advocate for the Petitioners.

Shri A.D. Bhobe, Advocate for the Respondent No.1.
Ms. Sapna Mordekar, Additional Government Advocate for the
Respondent No.2.

Coram:- DAMA SESHADRI NAIDU, J.**Date:- 24th July 2020****ORAL ORDER:**

The second petitioner is a Co-operative Society, and the first respondent was its chairman. On 22.02.2017, the Directors/Promoters of the respondent Society expressed their lack of confidence on the Chairman and voted him out of the Chairmanship. Out of 14 Directors, 13 voted against the Chairman.

2. Later, on 09.11.2017 the first respondent was expelled from the Society. Of the 170 members attended, 157 voted against him, 12 supported, and 2 did not take part. Aggrieved, the first respondent approached the second respondent, that is the Registrar of Co-operative Societies. Under the statute, the Registrar is the appellate authority.

3. Eventually, the appellate authority set aside the Society's resolution, through which the first respondent was expelled. Then, the Society and the other Directors approached the Tribunal, but the

Tribunal, on some technical grounds, sent the matter to the District Court.

4. As the record reveals, on 05.03.2020 the District Court set aside the impugned order and remanded the matter to the appellate authority. That means, the first respondent's expulsion stood restored.

5. The matter remanded, on 29.05.2020, the appellate authority notified the parties to appeal that the matter would be taken up for hearing on 16.06.2020. At any rate, the moment the matter was remanded to the appellate authority, according to the petitioners' counsel Shri Parag Rao, the Society and the other office-bearers apprehended that the first respondent might secure an ex parte order. And that would result in the first respondent's membership restoration. So they entered a caveat. The caveat, dated 23.05.2020, is said to have been received by the appellate authority's office on 26.05.2020.

6. Meanwhile, as Shri Bhobe contends, the first respondent moved an application on 02.06.2020. He sought an ex parte interim suspension of the Society's resolution that had expelled him from the primary membership.

7. Shri Bhobe, in this context, explains that as the term of the previous Managing Committee ended in 2020, the election process has begun. That means, unless the first respondent's membership was restored, he could not participate in that process. Thus moved by the first respondent, the appellate authority advanced the hearing to 2nd June 2020 and passed an ex parte ad interim order, again, suspending the Society's impugned resolution. The interim suspension should last until the appeal

is disposed of. And that was in the face of the caveat the Society and the office bearers had filed.

8. True, Shri Bhobe does contend before this Court that the first respondent has received no copy of the caveat. That said, the fact remains that the notice has been on the appellate authority's file.

9. This Court, through its order dated 10.07.2020, suspended the appellate authority's interim ex parte order, dated 02.06.2020. The learned Additional Government Advocate representing the second respondent-Registrar of Cooperative Societies, on instructions, submits that the Registrar will dispose of the proceedings pending before him on the merits within the time frame this Court may fix.

10. Now all parties agree that the Court may dispose of the Writ Petition by fixing a time frame for the second respondent to consider the proceedings pending before him and pass appropriate orders. To enable the second respondent to do so, this Court fixes a time frame of eight weeks.

11. As a result, I set aside the order dated 02.06.2020 passed by the Registrar holding that the second respondent will consider the proceedings on the merits uninfluenced by any observations made by this Court and pass orders in eight weeks from today.

DAMA SESHADRI NAIDU, J.

NH