

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4318 of 1986

Date of decision: 31-3-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GOPALBHAI JOITARAM PATEL

Versus

UNJHA NAGARIK SAHAKARI BANK LTD

Appearance:

Mr. D.C. Raval for Petitioners
Mr. P. R. Jani for respondent No.1
Mr. H.L. Jani for Respondent No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/03/97

ORAL JUDGEMENT

This matter has come up for hearing before this Court from time to time and the counsel for the petitioners was directed to take instructions from the petitioners whether any of their substantial grievance survives in the petition or not. The counsel for the petitioners very fairly conceded that the petitioners have not responded to his letters. So the petitioners' counsel has no instruction on the question whether any grievance of substantial nature of the petitioners survives or not. Be that as it may.

2. The matter pertains to the challenge made by the petitioners to Rule 9 of the Election Rules, and further challenge is made to Byelaw No.56 of the respondent Society. The petitioners have not given out the name of the Rules. However, the dispute pertains to the eligibility as well as right of the members to cast vote in the election of the Directors on Board of Directors of the respondent Society.

3. In para 4 of the petition the petitioners stated that they could not have preferred appeal as the cause of action arose to them only after 30th June, 1986 when petitioner No.1 decided to contest the election and petitioner No.2 realised that he cannot vote. So both the petitioners felt offended by Rule 9 and Byelaw 56 only when one of them decided to contest the election to the Board of Directors and second petitioner intended to cast vote for him. This court has declined to grant any interim relief, meaning thereby for all these years the election of the Board of Directors of the Society are being conducted in accordance with the provisions of the Election Rules and the Byelaws. The petitioners' counsel and also the counsel for respondents are unable to state whether still the aforesaid provisions are continued or not. It is not the case of the petitioner that still they are felt aggrieved by those provisions. In view of this position, I do not consider it proper to go into the merits of the matter. It is not obligatory on the part of this Court sitting under Article 226 of the Constitution to decide all the points raised by the petitioner. Only in case the petitioners find that these provisions are prejudicially affect their right or interest, then only the Court may be under obligation to decide the matter on merits, and when no grievance whatsoever of the petitioners survive, the court should not consume its valuable time to decide academic matters and issues. It is high time that this course is followed by this Court, looking to the mounting arrears of pending cases. The matter should be decided on merits only where it is really essential to give relief to the petitioners.

The grievance and cause complained of in the petition, if survives on the day on which matter was taken for final hearing, then only the court is justified to consume its valuable time to decide the matter on merits and not otherwise.

4. The interest of justice will be met in case this special civil application is disposed of in terms that the provisions as contained in Rule 9 of the Election Rules and the Byelaw 56 still continue and if the petitioners have any grievance against those provisions or otherwise those provisions are prejudicially affecting their interest, then they may approach the Secretary, Cooperative Department, Sachivalaya, Gandhinagar, by filing representation and if such representation is filed, then it is expected of the authority concerned to decide the same within reasonable time, say, within six months from the date of receipt thereof. The petitioners have also the right of appeal in the matter. Subject to the aforesaid observations, the petition stands disposed of. Rule discharged. No order as to costs.

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