

IN THE HIGH COURT OF BOMBAY AT GOA  
MISC. CIVIL APPLICATION NO. 319 OF 2004  
IN  
WRIT PETITION NO. 217/2003.

Shri Mahanand Gajanan Asnodkar,  
Indian National,  
residing at Arrarim,  
Socorro, Porvorim, Bardez, Goa. ... Petitioner.

VERSUS

1. Shri Agnelo Alexinho Lobo,  
Aged 54 years, Indian National,  
residing at House No.67/5,  
Vaddem, Socorro, Bardez, Goa.
2. The Administrative Tribunal  
Goa, Through its President,  
with its office at Panaji, Goa. ... Respondents.

Shri V.P. Thali, Advocate for the Petitioner.

Shri J. Cardozo, Advocate for the Respondent No.1.

**CORAM: N.A. BRITTO, J.**

DATE: 12TH MAY, 2004.

ORAL ORDER:

Heard Shri Thali and Shri Cardozo, learned  
counsels for the Petitioner and Respondent No.1  
respectively, on application dated 11.5.2004.

2. The respondent No.1 having filed an Election  
Petition before the learned Administrative Tribunal,  
Goa, the learned Administrative Tribunal was pleased  
to set aside the election of the petitioner to Ward  
No.6 of Village Panchayat of Socorro. The learned

Administrative Tribunal ordered fresh elections to be held to the said Ward.

3. As against the said Judgment/Order of the learned Administrative Tribunal dated 25.04.2003, the petitioner approached this Court in Writ Petition No.217/2003 and this Court by Order dated 6.6.2003 was pleased to stay the said Judgment/Order of the learned Administrative Tribunal dated 25.04.2003 with certain conditions, namely that leave was granted to the petitioner to sign the register at the meeting of the Panchayat and to attend the same but was required not to participate in the proceedings or vote or draw any other remuneration as member of the Panchayat.

4. It appears that on 13.4.2004 Smt. Ditosa Lobo who was the Deputy Sarpanch was removed from her office by no confidence motion moved against her and on 16.4.2004 the petitioner filed an application before this Court which came to be registered as Misc.C.A. No.280/2004. The said application dated 16.4.2004 came to be rejected by this Court by Order dated 20.4.2004. In rejecting the said application of the petitioner, this Court observed that what the petitioner sought by the said application was a modification of the Order passed by this Court on 6.6.2003 which could not be done by means of a Civil

Application and in case the petitioner was aggrieved by the Order, he could either file a Review Application or an Appeal, but he could not move a different Bench of the Court for modification of the said order and for that reason the application was rejected with liberty to the petitioner to move an appropriate application for review or filing an appeal in case such a remedy was available to the petitioner.

5. Now, the petitioner alleges that on 7.5.2004 Shri Sarvesh D. Naik, the Sarpanch of the Village Panchayat has been removed from his office by passing a no confidence motion and that the election to the post of Sarpanch will be held immediately and therefore this would be a fit case to modify the order passed by this Court on 6.6.2003 because the electorate of Ward No.6 would go unrepresented in the election to the Office of the said Sarpanch. At the time of hearing of this application, Shri Thali, learned counsel for the petitioner, has submitted that stay ought to have been granted to the petitioner absolutely in view of the Judgment of the Hon'ble Apex Court in the case of **Kirpal Singh v. Uttam Singh** reported in 1985 (4) S.C.C., 621.

6. Shri Cardozo, learned counsel for respondent No.1, has no objection in case the petitioner is

allowed to vote at the meeting to be held for the election of the said Sarpanch.

7. In my opinion, the no objection conveyed on behalf of respondent No.1, cannot come in the way of the dismissal of the present application filed by the petitioner dated 11.05.2004 which deserves to be dismissed for the very reasons given in the Order of this Court dated 20.4.2004.

8. In view of the above, the application of the petitioner dated 11.5.2004 is hereby dismissed.

9. Shri Thali, learned counsel for the petitioner, who is present along with the Petitioner, upon instructions from the petitioner, seeks leave to withdraw the Writ Petition No.217/2003 to give effect to the Order of the Administrative Tribunal dated 25.4.2003. Leave granted. Writ Petition No.217/2003 shall stand dismissed as withdrawn.

**N.A. BRITTO, J.**

s1.