

(1996) 01 GUJ CK 0004
In the Gujarat High Court

Case No : Spl. Civil Application No. 12100 of 1994

Ramchandra Bhagwanji Desai

APPELLANT

Vs

Gulabbhai Kalidas Desai and Others

RESPONDENT

Date of Decision : 09-01-1996

Acts Referred:

Constitution of India, 1950 — Article 226, 329
Gujarat Municipalities Act, 1963 — Section 14

Citation : AIR 1996 Guj 179

Hon'ble Judges : N.N. Mathur, J

Bench : Single Bench

Advocate : P.M. Raval, for the Appellant; K.G. Vakharia, Sirish Joshi and Kalpesh Jhaveri, for the Respondent

Final Decision : Dismissed

Judgement

N.N. Mathur, J.—By way of this Special Civil Application, the petitioner has challenged the order of the Gujarat State Co-operative Tribunal, Ahmedabad dated 30-9-1994 whereby the Tribunal has upheld the decision of the Board of Nominee dated 26-8-1994 holding the petitioner -- defendant Gulabbhai Kalidas Desai disqualified for contesting the election of Director in view of Rule 26(B) of Sardar Bhilwadwala Pardi Peoples Cooperative Bank Ltd. Bye-laws, hereinafter referred to as Bye-Laws and Rule 19 of the Election Rules of the Society, hereinafter referred to the Election Bye-laws.

2. The respondent No. 2 Sardar Bhildwala Pardi Co-operative Bank Ltd, (hereinafter referred to as the Bank) is an Urban Co-operative Bank incorporated and/or deemed to be incorporated under the provisions of the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as the Act of 1961). The Bank has framed its Bye-laws which are approved and sanctioned by the Registrar of the Co-operative Societies. The Bye-law 26(A) provides that the Board of Directors of the Respondent No. 2 Board will consist of 15 Directors divided into 5 area of operation; 1/3 Directors will retire every year. The Bye-law

further provides that the election of the Board of Directors will be held according to the rules framed by the Board and approved by the Registrar. The result of the election shall be declared in the Annual General Meeting and till then retiring Directors will continue to function as Directors. Bye-law No. 26(A)(2) divides the area of operation into 5 different zones viz. Pardi, Vapi, Udwada, Vapi industrial Area and Umarsadi and six seats are in Pardi. Constituency, 2 seats in Udwada Constituency and 1 seat in Vapi Industrial Area Constituency and Umarsadi Constituency. Bye-law 26(A)(3) provides that at every year the vacancy caused by the retiring Directors shall be filled up by the Members registered under that Constituency. The Bye-laws further provides that if the vacancies are equal to the contesting candidates, there will not be any poll but they will be declared elected at the Annual General Meeting. Bye-law No. 26(B) provides for the qualification for the candidate, which reads as follows:

"26(B):-- A member who holds the share in his individual name, who is not younger than 21 years of age and against whom the bank's dues or instalment as the principle debtor or in the capacity of surety is not outstanding, as also wherein he is a partner in a partnership firm or company has obtained the loan, and the same has not become overdue, and against whom no criminal case or cases of moral turpitude is proved and who does not have the disqualifications as mentioned in Rule 32 of the Gujarat Co-operative Societies Rules, shall be qualified to become a Director of the Bank. General Manager or any Officer subordinate to him being the paid Officer or the employees of the Bank shall not be entitled to become a Director of the Bank."

Thus, according to Rule 26(B) of the Bye-laws an individual shareholder being a member shall be qualified if dues or instalments are due against him as debtor or in his capacity as surety or in other words default in payment of dues of instalment of the Bank either as principal debtor or as surety shall be disqualification. The period of disqualification has been provided under Rule 19 framed by the Standing Committee known as Election Bye-laws which provides that the member contesting for the post of Director shall have qualifications as per the provisions of the Bye-law No. 26(B) continuously from 31st March, till the result of the election is declared in the Annual General Meeting. English Translation of Rule 19 reads as under:

"A member contesting for the post of Director shall have the qualifications as per the provisions of Bye-law No. 26(B) continuously from 31st March, till the result of the election is declared in the General Board Meeting, and if the candidate fails to do as above, his nomination shall be rejected by the Returning Officer, on being satisfied about the breach of Bye-law No. 26(B). (If the candidate fails to possess the aforesaid qualification as per Bye-law No. 26(B) even for a day during the period aforesaid, he will be disqualified to become a Director).

If anyone who is desirous of contesting the election for the post of Director wants to have the information about whether the Bank's dues or instalment as surety or principal debtor has become overdue or not, he has to get the said

information from the concerned Branch before 31st March, by giving the definite details about the concerned account."

3. The necessary notification for the election of Directors of the Bank from Vapi Constituency was issued on 1-8-1994, providing the following election Schedule.

1st August, 1994 to 5th August, 1994. For issuance of the nomination paper.

4th August, 1994 to 10th August, 1994 Date for filing nomination paper.

12th August, 1994 Scrutiny of the nomination papers.

13th August, 1994 Date for publication of the names of the candidates whose nomination papers are accepted.

13th August, 1994 to 17th August, 1994 Date for withdrawal of the nomination papers.

18th August, 1994 The date for publication of the names of the contesting candidates.

11-9-1994. Date of poll.

4. The petitioner Ramchandra Bhagwanji Desai and the respondent No. 1 Gulabbhai Kalidas Desai filed the nominations. Both the nominations were found to be in order and thus they were accepted. Before the date of poll, on 18-8-1994 respondent Gulabbhai Kalidas Desai filed a suit before the Board of Nominee at Surat which was registered as Lavad suit 935 of 1994 seeking declaration that the defendant -- Ramchandra Bhagwanji Desai was not qualified to contest the election. According to the plaintiff, the defendant did not possess necessary qualifications on the date of scrutiny and from 31-3-1994 till the date of declaration of result in the Annual General Meeting in view of the provisions of Rule 26(B) of the Bye-laws and Rule 19 of the Election Bye-laws. The plaintiff further prayed that he may be declared elected uncontested from Vapi constituency. All the defendants promptly filed their written statements before the Board of Nominee. A pursis was also filed before the Board of Nominee on 26-8-1994 with a request by all the concerned parties that the application Exh. 5 for injunction and the suit be taken up together and decided. The Board of Nominee by Award dated 26-8-1994 held that the defendant-petitioner disqualified for contesting the election and declared the plaintiff respondent No. 1 declared uncontested. The defendant being aggrieved with the order of the Board of Nominee preferred an Appeal before the Gujarat State Co-operative Tribunal which was registered as Appeal No. 267 of 1994. The Tribunal by its judgment dated 30-9-1994 dismissed the appeal.

5. Mr. P. M. Raval, learned Sr. Advocate appearing for the petitioner has raised the following contentions.

(i) The learned Board of Nominee committed an error in entertaining the Election petition for the reasons:--

(a) That Section 97(1)(a) of the Act of 1961 by necessary implications excludes entertainment of the election dispute prior to declaration of result;

(b) That the jurisdiction of the Civil Court/Board of Nominee is excluded in view of the Election Law in general that once election process starts the Courts, are precluded from interference with the process of election, till the result is declared.

(ii) That the Tribunal has committed an error in reading the period of qualification provided under Rule 19 of the Election Rules adopted by the Board of Director in its meeting as the Standing Committee has no such power to frame such rule with respect to disqualification of the member of the committee.

(iii) The Tribunal and Board failed to appreciate the requirement under Rule 26(B) of the Bye-laws is not "due" simpliciter but it is "overdue" i.e. something more than due.

(iv) Disqualification provided under Rule 26(B) read with Rule 19 of the Election Bye laws which provides continuity of qualification from 31 st March till declaration of result in the Annual General Meeting and as such it is unreasonable and deserves to be struck down.

Contention No. 1.

6. In order to appreciate the first contention it would be proper to read Section 97(1)(d) of the Act of 1961, which reads as under:--

"97(1)(d)-- When the dispute is in respect of an election of any office-bearer of a society, be two months from the date of the declaration of the result of such declaration.

On plain reading of Section 97(1)(a), it only provides for starting point of limitation with respect to election (of) office bearer. This does not control Section 96(1) of the Act of 1961 so as to curtail jurisdiction conferred on the Registrar to entertain the suit after result of election is declared. In fact, there is no provision which prohibits maintainability of the suit prior to declaration of result of the election. In absence of such provision no inference can be drawn as suggested by Mr. Raval. I am fortified in my view by the decision of this Court in the case of Krishna Gopal Joshi Vs. Annyonya Sahayyakari Mandali Co-operative Bank Ltd. and Others, . Considering the provisions of Section 96 the Court held thus (at p. 108, Para. 6 of AIR):--

The language of Sub-section (1) of Section 96 is wide enough to include within its ambit disputes arising out of rejection of nomination papers even if they are raised before the election is held. If Sub-section (1) of Section 96 confers jurisdiction, as it in my opinion does, upon the Registrar to entertain a dispute touching the constitution of a society, it necessarily confers upon him the jurisdiction to entertain a dispute relating to the rejection of a nomination paper even before the election is held."

7. Thus, reading the provisions of Sections 96(1) and 97(1)(d) and in view of the

decision rendered of this Court in Krishna Gopal Joshi Vs. Annyonya Sahayyakari Mandali Co-operative Bank Ltd. and Others, , I find no substance in the contention of the petitioner that the Board of Nominee committed error in entertaining suit for the reason that Section 97(1) excludes by necessary implication to entertain suit prior to declaration of the election result.

8. The another limb of first contention is that once the election process starts the Courts are not to interfere with the process of election. Mr. Raval has placed reliance on various authorities of the Apex Court and this Court; N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, , Election Commission of India Vs. Shivaji and Others, : Mehsana District Central Co-operative Bank Ltd., Mehsana and Others Vs. Merda Seva Shakari Mandli Ltd., Merda and Others, etc., : Ravjibbai Bhikhabhai Patel Vs. Bilimora Nagar Palika, . On the other hand Mr. Vakhariya submits that the controversy is settled by the decision of this Court in the case of Krishna Gopal Joshi Vs. Annyonya Sahayyakari Mandali Co-operative Bank Ltd. and Others, . This Court has distinguished the judgment of the Apex Court saying that they pertain to the provisions of the Representation of the People Act, 1951 and in view of Clause (b) of Article 329 of the Constitution of India which prohibits on entertaining any election disputes against improper rejection or improper acceptance of a nomination paper before the election has been held and the result has been declared. In rejoinder Mr. Raval submits that the general law pertaining to the election also applies to all democratic Institutions, including the Cooperative Banks.

9. In the case of N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, , wherein the appellant was one of the persons who had filed his nomination paper for election of Madras Legislature Assembly and his nomination paper was rejected on certain grounds. The appellant challenged order of the rejection of nomination paper by way of writ petition under Article 226 of the Constitution of India. The High Court rejected the petition on the ground that it had no jurisdiction to interfere with the order of the Returning Officer by reason of the provisions of Article 329(b) of the Constitution of India. On appeal Supreme Court, examining the provision of the Representation of People Act, viz. Section 80, Section 100 which provides grounds on which election can be called in question, Section 105 which makes every order of the election Tribunal final. Section 170 which prohibits the jurisdiction of the Civil Court; applying the well recognised principle that where a liability is created by Statute which gives special remedy for enforcing it the remedy provided under the Statute should be availed of. Further reading the negative language used in Article 329(b) of the Constitution that no election shall be called in question by an election petition presented in accordance the provisions of this part "and having regard the fact that the Legislature have to perform in democratic countries, election must be concluded as early as possible according to the time Schedule and all controversial matters and disputes arising out of the election proceedings may not be unduly retained or protected. Held that any matter which has the effect of

vitiating an election should be brought up only at the appropriate stage and in an appropriate manner before Special Tribunal and should not be brought up at intermediate stage before any Court.

10. In the case of Election Commission of India Vs. Shivaji and Others, , the Governor of Maharashtra by a notification dtd. 18th September, 1987 issued under S. 16 of the Act called upon the six local authorities constituencies in the State of Maharashtra to elect one member from each of the said constituencies in order to fill the vacancies in the Maharashtra Legislative Council which had been caused by the retirement of the member representing the said constituencies on the expiration of their terms of office. On the same day the Election Commissioner of India, also issued a notification u/s 30 of the Act fixing the calendar of events for the purpose of holding the elections accordingly. The petition was filed before the Aurangabad Bench of the Bombay High Court under Article 226 of the Constitution of India, challenging validity of the notification issued by the Election Commissioner dated 18-9-1987 on the ground that the notification was invalid because the Zilla Parishad of Osmanabad and the Zilla Pari-shad of Latur district which were within the constituency had not been constituted and the Administrators were appointed to run the said Zilla Parishads and therefore the members of the said Zilla Parishads who were entitled to take part in the said elections had been deprived their right to participate in the said elections. The learned single Judge while issuing the notice on the Writ Petition passed the ex parte interim order directing postponement of the last date of withdrawal of candidature. The Division Bench relying on the decision of the Apex Court in the case of Inderjit Barua and Others Vs. Election Commission of India, held that validity of the election process under the Act could be challenged only in the election petition filed under the Act as provided by Article 329(b) of the Constitution of India, dismissed the writ petition. Subsequently, a Review Application was filed on which the same Division Bench while issuing the notice for admission, stayed the election fixed on 18-10-1987. The said interim order on the Review Application was challenged by the Election Commission of India before the Supreme Court. The Apex Court held that there was hardly any justification in entertaining the Review Application in the circumstances of the case for issuing notice thereon particularly after the High Court itself had rejected the writ petition on the ground that it had no jurisdiction to interfere with the process of election at that stage in view of Article 329(b) of the Constitution of India. The Court pointed out that interference is not to be made in election process for every non-compliance with the provisions of any law, as the law is that the election will vitiate only on showing that the non-compliance of such provision of law has materially affected the election. The Apex Court asked the constitutional functionaries to observe restraint in the matter of interference with the process of election. The Court said (at p. 66, para. 7 of AIR):

"The High Court was in error in thinking that it alone had the exclusive power to protect the democracy. The success of the democracy depends upon the co-

operation of the Legislature, executive, the judiciary, the Election Commission, the press, the political parties and above all the citizenry and each of them discharging the duties assigned to it. Every member of the body politic should play his legitimate role for the success of democracy. Success of democracy also depends upon the observance of restraint on the part of constitutional functionaries."

11. In the Mehsana District Central Co-operative Bank Ltd., Mehsana and Others Vs. Merda Seva Shakari Mandli Ltd., Merda and Others, etc., , the question before the Division Bench of this Court was continuance of the Director of certain specified co-operative societies even beyond the term for which they were elected. The Court observed that the societies are to be managed on the democratic principles and democratic principles surely do not mean that a person be permitted to cling to the office beyond the period for which he has been elected.

12. The next case relied upon by Mr. Raval, in the case of Ahmedabad Military and Rifle Training Association and Others Vs. Harsidhbhai Govindlal Shah, . In this case the learned single Judge of this Court while dealing with the question of grant of injunction for holding Annual General Meeting of the Association held that the election is heart of democracy and democratic functioning and if elections are not allowed to be held by granting interim injunction no democracy can work. It was also held that if there is any illegality in the process of election the same can be challenged and corrected after result of the election is declared. He has also next relied on the decision of this Court in the case of Ravjibhai Bhikhabhai Patel Vs. Bilimora Nagar Palika, . In the said case election of two municipalities were challenged on the ground of breach of certain provisions of the Gujarat Municipalities Act, 1963 or Gujarat Municipalities Election Rules pertaining to preparation of electoral roll. Preliminary objection was raised pointing out that since there is an alternative remedy u/s 14 of the Gujarat Municipalities Act for determining validity of the Municipal election and since that has not been availed of this Court should not exercise its jurisdiction under Article 226 of the Constitution of India and this Court noticing various judgments of the Apex Court and this Court, catalogued the various principles enunciated therein. Mr. Raval has invited my attention to Principal No. 6 in the said judgment, which reads as under:--

"(6) It is a well recognized principle and a matter of public importance that elections should be concluded as early as possible according to the time schedule, and all controversial matters as well as disputes arising out of the elections should be postponed till after the elections are over so as to avoid an impediment or hindrance in the election proceeding. In other words, there is a provisional finality in matters pertaining to the various stages of elections."

13. On the other hand Mr. Vakharia, learned Advocate for the respondents has heavily relied on the decision of this Court in the case of Krishna Gopal Joshi Vs. Annyonya Sahayyakari Mandali Co-operative Bank Ltd. and Others, . The learned

Single Judge while dealing with the judgment of the Supreme Court in the case of N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, , held that the said decision was with reference to the provisions of the Representation of the People Act, 1951 and Article 329(b) of the Constitution of India. It was noticed that Section 100 of the Act of 1951 expressly enables an aggrieved candidate to make in his election petition filed after the election has been held the improper rejection of a nomination paper or the improper acceptance of nomination paper a ground for challenging the validity of the election. The Court held that it is this scheme of election disputes which had led the Supreme Court in the aforesaid two decisions to lay down the aforesaid principle that there should not be any interference in the election process once it starts. The Court further held that so far as the election disputes under the Co-operative Societies Act, 1961 are concerned, is touching the constitution of a society it is entertainable at any stage whether before the election is held or after the election is held. At this stage, Mr. Raval, submits that the view expressed by the S. H. Sheth, J. in Krishna Gopal Joshi Vs. Annyonya Sahayyakari Mandali Co-operative Bank Ltd. and Others, , is in conflict with the view expressed by J. B. Mehta, J., in (1973) 14 Guj LR 786, on the question of remedy against a lawful rejection or wrongful acceptance of the nomination paper prior to holding of the election and declaration of the result. The contention deserves to be rejected, as it is based on misreading of the judgment of J. B. Mehta, J., in the case of Lambha Vividh Karyakari Seva Sahakari Mandli Ltd. Ahmedabad v. District Registrar, Co-operative Societies, Ahmedabad, reported in (1973) GLR 786. In fact this question was kept open by J. B. Mehta, J. Relevant para. 1 of the judgment reads as follows:--

"It is not necessary to conclude this controversy in the present petition, but this remedy in any event was highly debatable. Therefore, in any view of the matter, this preliminary objection must fail."

14. After the decision rendered by this Court in Krishna Gopal Joshi Vs. Annyonya Sahayyakari Mandali Co-operative Bank Ltd. and Others, , the Gujarat Co-operative Act came to be amended by introducing Chapter XIA, which provides for election of committees and officers of certain societies. By this amendment a separate election tribunal has been provided for the co-operative societies. However, a significant distinction has been made between primary and specified/apex societies, in the matter of elections. Chapter XIA deals with the election of committees of specified/ Apex societies, and not primary cooperative societies except Section 145Z which is evident from reading of Section 145A. The provisions reads thus:

"Section 145A -- All sections of this Chapter except Section 145Z shall apply to committees of societies belonging to categories specified in Section 74C."

15. It is not in dispute that primary societies do not belong to categories provided u/s 74C. Further, Section 145U provides for Election Tribunal or adjudication of election disputes. Section 145U reads thus:--

"145U(1)--Notwithstanding anything contained in Section 96 or any other provisions of this Act, any dispute relating to an election shall be referred to the Tribunal.

(2) Such reference may be made by an aggrieved party by presenting an election petition to the Tribunal."

Provided that no such petition shall be made till after the final result of the election is declared and where any such petition is made it shall not be admitted by the Tribunal unless it is made within two months from the date of such declaration.

Provided further that, the Tribunal may admit any petition after the expiry of that period, if the petitioner satisfies the Tribunal that he had sufficient cause for not preferring the petition within the said period.

The first proviso of Sub-section (2) clearly prohibits presentation of election petition till after a final declaration of the election result. The Legislature has not provided special election tribunal for the primary co-operative societies and has also not intended to prohibit the presentation of election petition before declaration of the election result, as is being done in the case of specified societies. If the Legislature intended to prohibit entertainment of election dispute in the case of primary co-operative societies before declaration of the result of election, the applicability of Chapter XIA would not have been restricted to specified/ Apex societies. Thus, Section 96(1) is the only provision which confers jurisdiction upon the registrar to entertain a dispute touching the election dispute in the case of primary society relating to rejection or acceptance of nomination paper even before the declaration of the result. Thus, in my view in the case of primary society, the jurisdiction of the Board of Nominee is not excluded on the principle that once election process starts the Courts are precluded from interference with the process of election till the result is declared. Board of Nominee did not commit any error in entertaining the election dispute. However, the principle laid down in Ahmedabad Military and Rifle Training Association and Others Vs. Harsidhbhai Govindlal Shah, , in the matter of grant of injunction in election dispute will also apply to primary co-operative societies. In a fit case where the dispute is neat and transparent it would be expedient to decide the controversy expeditiously.

16. The case in hand is of primary cooperative society. The suit was filed on 18-8-1994 and it was decided on 26-8-1994 i.e. within a week. It goes to the credit of Board of Nominee and cooperation of the learned Counsel and the parties. The Tribunal also decided the appeal in five weeks. In such cases, there is no purpose in asking the parties to wait till the result of election is declared. After the declaration of result, there is a normal practice of winning candidate to delay the Court proceedings. The entire endeavour is not to allow the petition decided till the term is over. The Board of Nominee was right in entertaining a suit and deciding it promptly. The first contention is thus rejected.

Contention No. 2.

17. It is contended by Mr. Raval that the Tribunal has committed an error in reading the period of qualification in Rule 19 of the Resolution adopted by the Standing Committee which had no power to adopt a resolution with respect to the election of Board of Directors. At the first instance, no such contention was raised before the Board of Nominee or the Tribunal and not even pleaded in the present Special Civil Application and as such cannot be permitted to be raised. Even otherwise, Rule 32 of the Gujarat Co-operative Societies Rules, 1965 provides qualification for the members of the Committee. Rule 32 reads as under:

"32:-- Qualifications for the members of the Committee:--

(1) Every member of a society who is entitled to vote shall be eligible for appointment as a member of a committee thereof, if--

(a) he is not in default in respect of any loan taken by him for such period as is specified in the bye-laws, or

(b) he has not directly or indirectly any interest in any subsisting contract made with the society or in any property sold or purchased by the society or any other transaction of the society except in any investment made in or any loan taken from the society, or

(c) if he is not otherwise disqualified for appointment as such member or

(d) he is not responsible u/s 82 or

(e) no order for recovery of costs is made against him by a Magistrate u/s 91, or

(f) no order is made against him u/s 93, or

(g) if he is not found guilty of the offences under, Section 147 or any offence u/s 403 of Indian, Penal Code in respect of the property of any society.

(1-A) A member of the Committee who incurs any of the disqualifications specified in Sub-rule (1) shall vacate the office and if he does not vacate such office, he shall be removed by Registrar as such member:

provided that the Registrar shall before making such order of removal give the person concerned an opportunity of being heard.

(2) Notwithstanding anything contained in Sub-rule(1)

(a) in case of societies dispensing credit, no person who does money lending business shall be eligible for appointment as a member of the managing committee of the society;

(b) a member of a society who carries on business of the kind carried on by the society of which he is the member shall not be eligible to be a member of any committee of that society without the sanction of the Registrar.

(3) Where any person becomes a member of a committee, or a society in contravention of Sub-rule (2) he shall be removed from the office as a member of such committee by the Registrar :

Provided that the Registrar shall, before making such order of removal, give the person concerned an opportunity of being heard.

18. Rule 32(1)(a) provides disqualification on account of default in respect of loan, or such period as provided under the bye-laws; The Bank Bye-law No. 26(A) (1) provides that the election shall be held every year as per the Election Rules framed by the Board of Directors and approved by the Registrar. Bye-law No. 26(A)(1) reads as under :--

"The Board of Directors shall consist of 15 members, and presence of 8 directors shall constitute quorum. The posts of these 15 directors shall be distributed into 5 zones of area of operation of the Bank as per Bye-law No. 26(A)(2). Every year one-third of the Directors shall retire, but they will be entitled to be re-elected subject to the provisions of Bye-law No. 26(B). Elections shall be held every year as per the Election Rules framed by the Board of Directors, and approved by the Registrar, and the result thereof shall be declared in the Annual General Meeting. Till then the retiring Directors shall function as Directors."

19. Rule 19 has been framed by the Board of Directors, in view of Rule 26A(1) of the Bye-laws, read with Rule 32 of the Election Rules. In view of this, there is no substance in the second contention and the same is rejected.

Contention No. 3.

20. The learned Advocate for the petitioner in order to make difference between "due" and "over due" has invited my attention to Rule 26(C) of the Bye-laws. It says that if any Individual elected as a Director remains absent in three consecutive meetings without leave of the Board of Directors, or against whom the bank's debts or its instalments as surety or principal debtor remains overdue despite having been informed about the same, his post shall be deemed to have been vacated. These contentions deserve to be rejected for the reason that Bye-law 26(C) only applies in case of the sitting Director.

Contention No. 4.

21. It is contended that Rule 19 which provides Continuity of disqualification from 31st March till declaration of result in the Annual General Meeting is unreasonable. In my view there is no merit in this contention. In democratic institutions like the cooperative societies a proper discipline is requirement of the hour. There appears to be public purpose behind such provision to insist upon the persons to be punctual in the matter of payment of dues/instalment. In the case in hand, the instalment had become due on 9-7-1994 and the petitioner deposited the same on 15-7-1994. To put it otherwise if the petitioner could have deposited the amount on 15-7-1994, there should not have been any difficulty in depositing the instalment on 7-7-1994, i.e., scheduled date, unless the person

had adopted dishonest practice or casual approach. Unfortunately, tendency has developed to avoid payment of public money as long as it is possible or in any case to adopt a casual approach in this regard. Such person in whatever Institutions they are doing great disservice to such Institutions. They are part of the problem of the ill-health of co-operative movement. The approach of the petitioner in the present case has not caused harm to himself alone but has dragged the Bank and respondents in litigations and consumed valuable time of the Courts. The Bank has been deprived of the service of the elected Director for 1 1/2 years. Unfortunately, this Court has also burn its finger by granting stay which has continued for more than one year. For the good health of the co-operative movement it is necessary to inject discipline. Thus, in my view Rule 19 cannot said to be unreasonable. Such provisions are in fact necessary.

22. In view of the aforesaid there is no merit in this Special Civil Application and hence the same is accordingly rejected. Rule is discharged. Interim Relief stands vacated. There shall be no order as to cost.