

Amrut

**IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 743 OF 2023**

1. Mr. SHANE REBELO,
Son of Moreno Rebelo,
Age 22 years, Resident of House No. 152,
Opposite St. Rita Hall, Maina, Curtorim,
Salcete, Goa

2. MR. JUNAID AHMED SUYYED.
Age 20 years, Son of Sayyed Abdul Khalik,
Resident of P 33 Rumdomol,
Housing board, Margao, Goa.

3. MR. GOMES ROSHAN ROBIN,
Son of Robin Caitan Gomes,
Age 22,
Resident of House No. 62/1 lourdes Vaddo,
Ucassaim, Mapusa, Goa.

4. Mr. SAHIL ARVIND KUDALKAR,
Son of Arvind Kudalkar,
Age 20 years,
Resident of House No.211
Vathadev, sarvan, Bicholim, Goa.

... Petitioners

Versus

1. GOA UNIVERSITY,
Through the Registrar,
University road, Taleigao,
Goa 403206.

2. DIRECTOR,
Directorate of Students Welfare(DSW)
Directorate Building, Block-D,
Goa University

3. DR. ANTHONY A. A. VIEGAS,
Director of Students Welfare,
Block D, Directorates of Goa University,
Taleigao, Goa 403206

4. STATE OF GOA,
through its Chief Secretary,
Secretariat, Porvorim, Goa

5. NAIK PRABHA ALIAS KARUNA
SHRIRAM,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

6. GAWAS HARSH ANIL,
Through the Director,
Directorate of Students welfare (DSW),
Directorate building, Block-D,
Goa University.

7. DESSAI MANDHAR MOHANDAS,
Through the Director,
Directorate of Students welfare (DSW),
Directorate building, Block-D,
Goa University.

8. SHETGAONKAR SAHIL SURESH,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

9. GAUNS DESSAI ARYAN YASHODAN,
Through the Director,
Directorate of Students welfare(DSW),

Directorate building, Block-D,
Goa University.

10.NAIK DESSAI SOHAN NANDA,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

11.BUYAO GRANTHIK SIDHANATH,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

12.SUMIT MAURYA,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

13.KIM FERNANDES,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

14.DESSAI VEER VIRENDRA,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

15.SANGODKAR SHIVAN SATYAVAN,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

16. RAJARAM KANTA MALIK,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

17. KANISHK JOHARI,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

18. KESHVINO ALTON PIRES,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

19. FABIO JOHN FERNANDES,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

20. GAWADE SHOBIT RAMCHANDRA,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

21. ROCQUE MALAIKA STANLEY,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

22.NAIK DEVESH DASHARAT,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

23.GAONKAR SHAMBA VITHAL,
Through the Director, Directorate of Students
welfare(DSW),
Directorate building, Block-D,
Goa University.

24.DIKSHIT KESHAV PAGI,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D.
Goa University

25.DESSAI PRIYANKA RAJESH,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

26.GAONKAR VINITA CHANDRAKANT,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

27.SHETGAONKAR SANTOSHI SONU,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

28.NAGVEKAR DEEPTI DILIP,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

29. YADAV ANIKET RAMLAKHAN,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

30.PARAB SHISHIR SHARAD,
Through the Director,
Directorate of Students welfare(DSW),
Directorate building, Block-D,
Goa University.

...Respondents

Mr S. S. Kantak, Senior Advocate with Mr Abhijit Gosavi, Ms Neha Kholkar, Ms Krupa Naik, Mr Guruprasad Naik and Ms Saicha Desai, Advocates for the Petitioners.

Ms A. A. Agni, Senior Advocate with Ms Afrin Harihar and Mr Junaid Shaikh, Advocates for Respondent Nos. 1, 2 and 3.

Ms Maria Correia, Additional Government Advocate for Respondent No.4.

Mr Gaurang Panandiker, Advocate for Respondent Nos. 5 and 7.

Mr P. Faldessai and Ms P. Tari, Advocates for Respondent Nos. 25, 26 and 27.

Mr Vishnu Langawat, Advocate for Respondent No.30.

CORAM: **M. S. SONAK &
VALMIKI SA MENEZES, JJ**

Reserved on : **14th DECEMBER 2023**

Pronounced on: **20th DECEMBER 2023**

JUDGMENT (Per M. S. Sonak, J)

1. Heard Mr S. S. Kantak, learned Senior Advocate with Mr Abhijit Gosavi, Ms Neha Kholkar, Ms Krupa Naik, Mr Guruprasad Naik and Ms Saicha Desai, learned counsel for the Petitioners, Ms A. Agni, learned Senior Advocate with Ms Afrin Harihar and Mr Junaid Shaikh, Advocates for Respondent Nos. 1, 2 and 3, Ms Maria Correia, learned Additional Government Advocate for Respondent No.4, Mr Gaurang Panandiker, learned counsel for Respondent Nos. 5 and 7, Mr P. Faldessai, learned counsel for Respondent Nos. 25, 26 and 27 and Mr Vishnu Langawat, learned counsel for Respondent No.30.

2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties. Even otherwise, by our order dated 02.11.2023, we had clarified that this petition would be disposed of at the admission stage. By further order dated 06.11.2023, this petition had been posted for final disposal on 28.11.2023.

3. The Petitioners challenge the impugned notification dated 30.10.2023 issued by the Director of Student's Welfare (DSW) extending at the last minute, the time limit prescribed for filing nomination forms to elect Executive Committee of the Goa University Student's Council from 1.00 p.m. to 5.30 p.m. on 30.10.2023.

4. The elections to the Executive Council are governed by the amended Statute SSA-7 (VII), which was assented to by the Vice Chancellor of Goa University on 12.10.2023. In terms of the statute, an election committee comprising five members and the Director of Student Welfare (DSW) was constituted and tasked with the conduct of elections to the Goa University Student's Council (GUSC) in the year 2023-2024.

5. On 25.09.2023, the DSW issued a notification in terms of amended SSA- 7(VII) notifying the election schedule for elections of the University Class Representative (UCR), University Faculty Representative (UFR) and Executive Council. In terms of this notification, each of the colleges affiliated with Goa University was required to submit a list of elected UFR by 4.00 p.m. of 20.10.2023.

6. Based upon inputs received from the affiliated colleges, DSW notified the list of eligible UFR on 28.10.2023. In terms of SSA-7 (VII), it is the UFRs that elect the Executive Council. This list was notified on 28.10.2023 and included 42 eligible UFRs. On 28.10.2023 itself, DSW notified another list of 38 ineligible UFRs.

7. In terms of the election schedule notified on 25.09.2023, the last date and time for filing nomination for election to the Executive Council was 30.10.2023 up to 1.00 p.m. There is no dispute that the Petitioners submitted their nomination forms between 11.40 and 11.55 a.m. on 30.10.2023.

8. The Petitioners contend that just before 1.00 p.m. of 30.10.2023, DSW issued the impugned notification dated 30.10.2023 extending the time limit from 1.00 p.m. to 5.30 p.m. on 30.10.2023 for submitting the nomination forms for election to the Executive Council. No reasons were indicated in this notification dated 30.10.2023, which has been impugned in the present petition. The DSW, after 1.00 p.m., on 30.10.2023, published “names of additional candidates who were found eligible after their records were furnished” and included therein a list of 20 names from out of 38 ineligible UFRs declared by notice dated 28.10.2023. As a result, the list of 42 eligible UFRs notified on 28.10.2023 was now increased to 62 eligible UFRs.

9. Based upon the impugned notification dated 30.10.2023, Respondent Nos. 5, 6 and 7, who were included in the list of 20 UFRs who were declared eligible only on 30.10.2023, filed their nominations post 1.00 p.m., on 30.10.2023. Further, taking advantage of ambiguity in the impugned notification dated 30.10.2023, Respondent Nos. 25 to 30, who had already been declared as eligible UFRs vide notice dated 28.10.2023, also filed their nomination forms post 1.00 p.m. on 30.10.2023. Aggrieved by all this, the Petitioners instituted the present petition on 31.10.2023 to challenge the impugned notification dated 30.10.2023.

10. This petition was circulated for 02.11.2023, and upon hearing the Learned Counsel for the parties and Dr. Anthony Viegas, DSW,

who was present in person, this Court made the following order dated 02.11.2023:

“P.C.:

1. Heard Mr Kantak learned Senior Counsel who appears with Mr Gosavi for the petitioners, Ms Agni, learned Senior Counsel with Ms Harihar for respondents Nos.1 and 2, Ms. Maria Correia, learned Additional Government Advocate for State of Goa, Dr Anthony Viegas, Director of Students Welfare (R-3) who is present in person. Mr Panandikar appears for the applicant in MCA(F) No.2519 of 2023 seeking impleadment/ intervention in the main petition.

2. The polling to the Goa University Students’ Council for 2023-24 is scheduled for 03/11/2023. In terms of the election schedule, the last date for receiving nomination forms was 30/10/2023 up to 1:00 p.m. About 20 minutes before the expiry of the time limit for receiving the nomination forms, i.e., at about 12.40 pm on 30/10/2023, the 3rd respondent issued a Notification to extend the time limit for receiving nomination forms from 1.00 pm to 5.30 pm. The challenge in this petition is to this Notification dated 30/10/2023 by which the time limit was abruptly extended from 1.00 pm to 5.30 pm.

3. Mr. Kantak has made several submissions, including, by way of questioning the powers and authority of the 3rd respondent to issue the impugned

Notification. Mr. Kantak also submitted that this entire exercise was mala fide and aimed at favouring some of the candidates/potential candidates, which, according to him, was evident from the University's returns in this matter.

4. Mr Kantak has pointed out that if the whole objective were only to grant some reasonable opportunity to the 20 UFRs, who are included in the voters' list under the directions of the Grievance Redressal Committee (GRC), then the extension of time limit would have been restricted only to such 20UFRs. However, he pointed out that only three out of the 20 UFRs who were included belatedly in the voters' list have filed four nominations between 1.00 p.m. and 5.30 p.m. Mr. Kantak pointed out that almost 7 UFRs who were on the original voters' list also filed their nominations between 1.00 p.m. and 5.30 p.m. without explaining why they were handicapped in filing their nominations before 01.00 p.m. on 30/10/2023.

5. Ms Agni, learned Senior Counsel for Goa University, submits that the inclusion of 20 UFRs was based upon the directions of the GRC to the Director of Students Welfare (R3). The GRC also issued a direction for an extension of the period for filing of nominations. Ms Agni pointed out that the GRC includes not only the election committee but also the Director of Social Welfare and some other members. Ms Agni explained that as a Body, once a decision was taken to extend the time for 20 UFRs, it was

felt that the benefit of extension should be extended to all the UFRs who were desirous of filing their nominations. She submitted that there was no malafide involved and only a fair opportunity was granted to all the UFRs.

6. At least, *prima facie*, the above explanation cannot be accepted unless it is demonstrated that there was some serious handicap for 42 UFRs for filing their nominations within the time limit prescribed in the original election schedule. Given this circumstance, the allegation that this entire exercise of extending the time limit at the last moment to favour some of the UFRs who had missed the bus would require deeper examination.

7. The entire electoral body for the elections to the Students Council could have theoretically comprised only 80 UFRs. Because of allegations of non-compliance with certain rules and regulations or procedural formalities, the voters' list was restricted only to 42 UFRs. Some of the excluded UFRs approached the GRC, and the GRC, by its order also dated 30/10/2023, found merit in the grievances of around 20 UFRs. Therefore, orders were issued to include 20 UFRs and for an extension of the time limit to enable them to file their nominations. This extension, at least *prima facie*, was to facilitate the filing of nominations by these 20 UFRs who were belatedly included in the eligible voters' list of UFRs. Taking advantage of all this, even the UFRs who had no handicaps in filing their nominations within the initially prescribed

election schedule also filed their nominations, and they were allowed to do so. This exercise calls for greater scrutiny.

8. *There are several challenges raised in this petition, which, according to us, require consideration. Besides, at least prima facie, we are not too satisfied with the explanation of why an additional opportunity was granted to the UFRs, included in the list of 42 UFRs, to file their nomination post 1.00 p.m. on 30/10/2023. At least prima facie, there was no handicap for these UFRs to file their nominations by 1.00 p.m. on 30/10/2023 in terms of the originally specified election schedule. Mr. Kantak submits that this is indicative of mala fides because this whole exercise of a last-minute order by the GRC and the DSW was only or rather mainly to allow such UFRs who had missed the bus to file their nominations belatedly.*

9. *Although the University and the DSW dispute this position, we think that the matter requires consideration. Further, we think that the petitioners must implead all the 20 UFRs who are included in the voters' list in terms of the GRC's order dated 30/10/2023. Any order in this petition is bound to affect their interest. Accordingly, leave is granted for their impleadment. The applicant in Misc. Civil Application No.2519 of 2023 is one such UFR. Accordingly, the MCA is allowed, and the applicant in the said MCA is ordered to be impleaded as a respondent. Mr Panandikar waives service on his behalf. Further, we think that even 7 UFRs who have filed nomination*

post 1.00 p.m. on 30/10/2023 should be implicated as respondents in this petition. Accordingly, leave is granted for their implcadment.

10. Mr. Kantak states that necessary amendments would be carried out forthwith. We issue notice to all the newly implicated respondents. Further, we grant liberty to the petitioners to serve such respondents through the DSW(R3). The DSW(R3) must ensure that the notice is served upon these newly implicated respondents at the earliest.

11. As noted at the outset, this is an election involving hardly 62 UFR's. Accordingly, it is not as if such an election cannot be postponed for some reasonable period until all necessary parties are before us and we have some time to decide the matter, which involves arguable issues. Today, we constituted a special sitting to hear this matter, but it would not be possible for us to proceed with the matter in the absence of so many parties, which, according to us, are necessary parties.

12. The DSW had offered to postpone the poll by one week. However, considering the ensuing vacations, we think that the polling involving hardly 62 UFRs could be held in the first week of December 2023. We propose to post this matter on 28/11/2023 for disposal at the admission stage. We direct accordingly.

13. The petitioners must ensure that the amendment is carried out forthwith. Process

fees and copies should also be supplied by tomorrow. The Goa University must render all assistance to serve the newly impleaded respondents.

14. If the parties wish to file further pleadings, they should do so on or before 24/11/2023 by exchanging the pleadings amongst themselves. The pleading can also be paged and tendered upon the reopening, provided copies are exchanged in advance.

15. Ms Agni states that the matter may be formally posted on 06/11/2023 so that the DSW would be able to indicate the precise date of polling after ascertaining the position of exams, etc. Accordingly, we post this matter on 06/11/2023 for directions. The DSW should now ensure that some suitable date is indicated by 06/11/2023 for holding the polls.

16. Stand over to 06/11/2023.”

11. On 06.11.2023, Ms Agni, Senior Advocate for Goa University, made a statement that the date of the poll could be 10th or 11th January 2024 as this would be the most convenient dates considering the position of examination and other pre-scheduled activities for the academic term. Accordingly, the petition was posted on 28.11.2023 for final disposal.

12. The Registrar of Goa University filed affidavits dated 01.11.2023 and 05.12.2023 in this petition. Similarly, the affidavits have been filed by Respondent Nos.25, 27 and 30 in this petition. The Petitioners filed

an affidavit in rejoinder. DSW filed an affidavit of service dated 02.12.2023. Affidavits were filed on behalf of Respondents 5 and 7. Accordingly, full opportunity was granted to all the parties to file their pleadings in this petition.

13. On or about 05.12.2023, when this matter was called out for final disposal, Ms Agni, Senior Advocate appearing for Goa University on instructions, stated that the Goa University would defend the acceptance of nominations of Respondent Nos. 5, 6 and 7 because according to the Goa University, these Respondents had submitted their expenditure statements to the Principals of their respective institutions much before 20.10.2023. However, there was a default on the part of such Principals to forward these expenditure statements to the Election Committee before 20.10.2023. She pointed out that these three Respondents, along with 17 others, made a grievance before the Grievance Redressal Committee (GRC). The GRC found merit in the grievance raised by these 20 UFRs. Therefore, by order/minutes dated 30.10.2023, GRC directed the acceptance of nomination papers by extending the time for filing of nominations from 1.00 p.m. to 5.30 p.m. of 30.10.2023.

14. Ms Agni, however, submitted that Goa University would not defend the acceptance of the nomination papers of Respondents 25 to 30 because their case was entirely different from the case of the 20 UFRs who had raised a grievance before the GRC and obtained relief from the

GRC. She submitted that there was no handicap whatsoever for Respondent Nos.25 to 30 to file their nomination forms before 1.00 p.m. on 30.10.2023. Therefore, she submitted that the Goa University and its Election Committee had now decided not to consider the nomination forms filed by Respondent Nos.25 to 30 after 1.00 p.m. on 30.10.2023.

15. Ms Agni submitted that given Goa University's above-referred stance, the Petitioners should consider whether they should pursue the petition and challenge the acceptance of nomination forms of Respondent Nos.5, 6 and 7. She submitted that the Election Committee/Goa University would not take into consideration the nomination forms of Respondent Nos.25 to 30 to consider only the nomination forms of Respondent Nos. 5 to 7.

16. Accordingly, Mr Kantak, Mr Faldessai, and Mr Langavat sought a short adjournment to consider their position. After that, Mr Kantak, based upon the instructions from the Petitioners, submitted that the Petitioners, without prejudice to their contentions, would not pursue the challenge to the acceptance of nomination forms of Respondent Nos.5, 6 and 7 as long as Goa University/Election Committee would not consider nomination forms of Respondent Nos.25 to 30 which were admittedly filed beyond 1.00 p.m. of 30.10.2023 for no tangible reason.

17. Based upon the above and without prejudice, the statements made on behalf of the Petitioners and the Goa University, we could have

disposed of this petition. However, Mr Faldessai, learned counsel appearing for Respondent Nos. 25 to 27 and Mr Langawat, learned counsel appearing for Respondent No.30, objected to the disposal of this petition by submitting that they would justify the acceptance of nomination forms of Respondent Nos. 25 to 30. Accordingly, the affidavits were filed by Respondent Nos. 25, 27 and 30 to justify acceptance of their nomination forms filed beyond 1.00 p.m. on 30.10.2023. No affidavits were, however, filed by Respondent Nos. 26, 28 and 29.

18. At the final arguments on 14.12.2023, Mr Kantak submitted that GRC had no power to direct the Election Committee to extend the date for filing nominations. He submitted that since the Election Committee had not extended dates, the notification issued by DSW was ultra vires and without authority of law. He submitted that the College had no duties/obligation to furnish any expenditure statement to the DSW, and it was for individual UFRs to do the same. He, therefore, submitted that the contention about 20 students, whose grievance was favourably considered by the GRC being at no fault, was not correct and should have been rejected. Mr Kantak submitted that once an election schedule is declared, no changes can be made unless such changes are in furtherance of the election process. He submitted that the Petitioners had alleged malafides, and the last-minute extension was not for any bonafide purpose.

19. Mr Kantak submitted that almost 6 UFRs who had already been declared as eligible on 28.10.2023 also filed their nominations post 1.00 p.m. on 30.10.2023 when absolutely nothing prevented them from filing their nominations in the pre-announced election schedule timing. He submitted that from this, it was clear that the extension was not granted because of some default on the part of the Principals of 20 colleges. Still, the extension was vitiated by factual and legal malafide to benefit the UFRs who had missed the bus in filing their nomination papers.

20. Mr Kantak submitted that Respondent Nos. 25 and 27 had filed a false affidavit before this Court. He submitted that these Respondents have also suppressed relevant communications addressed by them to the DSW/Election Committee. He submitted that the reasons set out in the said communications are at variance with the reasons in the affidavits. He relied on the nomination filing timeline provided by Goa University. He submitted that the facts, as well as reasons set out in the affidavits of Respondent Nos. 25 and 27, were false and, in any case, in the nature of afterthought. Mr Kantak relied upon *Union Territory of Ladakh and Others Vs Jammu and Kashmir National Conference and Another*¹, in support of his contentions.

21. Ms Agni countered the contentions of Mr Kantak, in so far as such contentions attacked the acceptance of nomination papers of

¹ 2023 SCC OnLine SC 1140

Respondent Nos. 5, 6, and 7. She submitted that it was a consistent practice that UFRs would submit their expenditure statements to their College Principals. The College Principals were then duty-bound to forward the same to the Election Committee on or before the prescribed date. She submitted that acceptance of such a practice was not denied by the Petitioners, who had themselves followed this practice. She, therefore, submitted that there was no infirmity in the GRC's decision which concerned UFRs of 20 colleges which had failed to forward the expenditure statements to the Election Committee.

22. Ms Agni, however, did not support the acceptance of the nomination of Respondent Nos.25 to 30 which, according to her, were filed beyond 1.00 p.m. of 30.10.2023 without any valid reason. She submitted that affidavits filed by Respondent Nos.25 and 27 do not represent the correct factual position. She submitted that from the context, it was clear that the GRC decision did not apply to Respondent Nos. 25 to 30. She submitted that the case of Respondent Nos. 25 to 30 was not comparable to the case of 20 UFRs who had submitted their expenditure statements to their Principals, but the Principals had failed to forward the same to the Election Committee. She submitted that Respondent Nos.25 to 30 had been declared eligible UFRs on 28.10.2023, and therefore, nothing prevented them from filing their nomination forms before 1.00 p.m. on 30.10.2023. To this extent, therefore, Ms Agni supported the contention of Mr Kantak.

23. Mr P. Faldessai learned counsel for Respondent Nos. 25 to 27, referred to the affidavits of Respondent Nos. 25 and 27 and submitted that these Respondents were present in the nomination hall around 12.00 noon. He submitted that after the impugned notification was published and the time limit for filing nomination was extended up to 5.30 p.m., Respondent Nos. 25 to 27 did not file their nomination forms before 1.00 p.m. but filed the same at 1.12 p.m. and 1.04 p.m., respectively. He submitted that the impugned notification dated 30.10.2023 does not say that the same applies only to 20 UFRs who had raised grievances before GRC. He submitted that even the GRC's order does not restrict the benefit of extended timings only to 20 UFRs who had raised grievances before GRC. He submitted that in these circumstances, there was nothing wrong in Respondent Nos.25 to 27 filing their nomination after 1.00 p.m. on 30.10.2023 and the Goa University or Election Committee should not now be permitted to take a U-turn in the matter.

24. Mr Faldessai submitted that the Petitioners had not suppressed their email communications addressed to DSW since, according to him, there was no variance between the stand taken by Respondents whom he represents in the said email and in the affidavits filed before this Court. He submitted that there was no difference between Respondent Nos. 25 to 30 on the one hand and 20 UFRs included in the list of eligible UFRs published on 30.10.2023. He submitted that, therefore, the petition must be dismissed, and no distinction could be made

between Respondent Nos. 5 to 7 on the one hand and Respondent Nos. 25 to 30 on the other. He submitted that such a distinction would be arbitrary and discriminatory.

25. Mr Langawat, learned counsel for the 30th Respondent, referred to SSA -7(VII) (viii) (c) and submitted that notification for the election of Members of the Executive Committee of the Students' Council has to be issued by DSW by giving at least 10 days' notice. He submitted that the election has to be ordinarily held within 10 working days from the date of the elections of the UFRs/USRs. In this notification, the programme of filing nominations/withdrawals/scrutiny, etc., will have to be clearly indicated. He submitted that since the declaration of the list of UFRs was not complete on 28.10.2023 and could be completed only on 30.10.2023, there was nothing wrong with Respondent No.30 filing nomination post 1.00 p.m. but before 5.30 p.m., on 30.10.2023. He submitted that there was nothing to distinguish between Respondent Nos. 5 to 7 on the one hand and Respondent Nos. 25 to 30 on the other. Accordingly, he urged the dismissal of the writ petition.

26. The rival contentions now fall for our determination.

27. In this case, Goa University has made it clear that it was not defending or justifying the acceptance of nomination papers of Respondent Nos. 25 to 30 post 1.00 p.m., on 30.10.2023. Ms Agni explained the reasons for this Goa University's stance quite clearly and cogently.

28. Mr Kantak, learned counsel for the Petitioners, without prejudice to the rights and contentions of the Petitioners and the larger issues about powers of the GRC and DSW, agreed not to press the petition against Respondent Nos. 5 to 7 as long as the nomination of Respondent Nos.25 to 30 were not going to be considered by the Goa University or its Election Committee.

29. Therefore, the only question which survives in this petition is whether the stance of Goa University in not considering or not accepting the nomination of Respondent Nos. 25 to 30 is correct. This is more so because, based upon material on record, we are satisfied that there is a vast difference between cases of Respondent Nos. 5 to 7 on the one hand and Respondent Nos. 25 to 30 on the other. Accordingly, based on the facts applicable to the former Respondents, no indulgence could have been extended to the latter. Such an extension would amount to treating unequals as equals.

30. Respondent Nos. 5 to 7 are a part of 20 UFRs who had approached the GRC with a grievance that they had submitted their expenditure statements within the prescribed period to their respective College Principals. Respective college Principals confirmed this position. However, it was found that the College Principals failed to forward these expenditure statements to the DSW or Election Committee before the last date prescribed for submission of the same. In these circumstances, the GRC, in its order/decision dated

30.10.2023, reasoned that at least these 20 UFRs should not be made to suffer for default on the part of their College Principals in not forwarding expenditure statements to DSW or Election Committee of the Goa University within the period prescribed. The decision of the GRC has to be read and construed in the context in which it was made.

31. Since the above factual position was substantially established from the material on record, we felt that Goa University's decision to accept the nomination forms of Respondents 5 to 7 promoted substantial justice. Therefore, even if we were to examine and uphold Mr Kantak's contentions based upon powers of GRC or DSW or contentions based upon his interpretation of the provisions of SSA-7 (VII) (Statute), we would be loath to interfere with the decision to accept the nomination forms of Respondent Nos. 5 to 7 in the exercise of our extraordinary and equitable jurisdiction under Article 226 or 227 of the Constitution of India.

32. It is well settled that this Court's jurisdiction under Article 226 or 227 of the Constitution is discretionary. Therefore, if by setting aside an order, another illegal or unjust order were to be revived, we would be justified in declining to exercise our discretion. In *Gadde Venkateswara Rao Vs State of A. P.*², the High Court had held the order passed by the Government on review to be bad. Still, the High Court did not interfere on the merits. The Hon'ble Supreme Court, while confirming

² AIR 1966 SC 828

the High Court's order, observed, "*If the High Court had quashed the said order, it would have restored an illegal order, it would have given the Health Centre to a village contrary to the valid resolutions passed by the Panchayat Samithi*". In the opinion of the Supreme Court, the High Court was, therefore, right in refusing to exercise its extraordinary discretionary power in the circumstances of the case.

33. In *Roshan Deen vs Preeti Lal*³, the Hon'ble Supreme Court observed how it has time and time again reminded that the power conferred on the High Court under Articles 226 and 227 of the Constitution is to advance justice and not to thwart it. The very purpose of such constitutional powers being conferred on the High Courts is that no person should be subjected to injustice by violating the law. The lookout of the High Court is, therefore, not merely to pick out any error of law through an academic angle but to see whether injustice has resulted on account of any erroneous interpretation of law. "*If justice became the by-product of an erroneous view of law the High Court is not expected to erase such justice in the name of correcting the error of law.*"

34. In *Municipal Board of Pratabgarh Vs Mahendra Singh Chawla*⁴, the Hon'ble Supreme Court observed that laws cannot be interpreted and enforced divorced from their effect on human beings

³ (2002) 1 SCC 100

⁴ (1982) 3 SCC 331

for whom the laws are meant. Undoubtedly, the rule of law must prevail, but as is often said, '*rule of law must run akin to rule of life. And life of law is not logic but experience.*'...While administering law, it is to be tempered with equity. If the equitable situation demands after setting right the legal formulations not to take it to the logical end, this Court would be failing in its duty if it does not notice equitable considerations and mould the final order in the exercise of its extraordinary jurisdiction.

35. Similarly, if Respondent Nos. 5 to 7 were to have approached us by instituting a writ petition, in all probabilities, we would have granted them the same relief which has now been extended to them by GRC upon being satisfied that these Respondents had, in fact, submitted their expenditure statements within the prescribed period. There was a default on the part of the colleges in forwarding these expenditure statements to the DSW or Election Committee within the period prescribed. Therefore, the stance of Goa University in distinguishing cases of Respondent Nos. 5 to 7 on the one hand and Respondent Nos. 25 to 30 on the other is correct. The approach of the Petitioners in not pursuing their petition against the acceptance of nomination papers of Respondent Nos. 5 to 7 is also quite fair and deserves to be commended.

36. Mr Faldessai's and Mr Langawat's contention about there being no difference between cases of Respondent Nos.5 to 7 on the one hand and Respondent Nos. 25 to 30 on the other cannot be accepted. Respondent Nos. 25 to 30 were already on the list of eligible UFRs

published on 28.10.2023. Mr Faldessai contended that at least the parties whom he represents were present in the nomination hall at around 12.00 noon i.e. almost an hour before a nomination could close. Assuming this was correct, absolutely nothing prevented Respondent Nos. 25 to 30 from filing their nominations before 1.00 p.m. on 30.10.2023.

37. The case of Respondent Nos. 25 to 30 was not even remotely comparable to the case of Respondent Nos. 5 to 7. The GRC's order, if read in the context, applies only to 20 UFRs who had raised a grievance before the GRC that they were unduly declared ineligible even though they had submitted their expenditure statements to their college Principals well within the time prescribed. The Respondents, 25 to 30, could not have taken advantage of the GRC's order, which did not concern them.

38. If Respondent Nos. 25 to 30 were to have approached this Court for an extension of time to file nomination forms, no relief could have been granted to them because there were no legitimate circumstances preventing them from filing their nomination forms before 1.00 p.m. on 30.10.2023. If the GRC's order is to be interpreted as including even the UFRs included in the list of 42 UFRs notified on 28.10.2023, then GRC's order would be vulnerable and open to the charge of overbreadth, arbitrariness and non-application of mind.

39. Affidavits filed by Respondent Nos. 25 and 27, though almost identical, leave a lot to be desired. The affidavits state that Respondent No.25 to 27 were present in the office of DSW for filing nomination “at around 12.00 noon as the time schedule for filing nomination was 1.00 p.m.” The affidavits proceed to state that, however, upon reaching the office of DSW, it was seen that DSW already put up a notice for an extension of time up to 5.30 p.m. The affidavit then states that since there were several students filing nominations and there was no hurry to file nominations by 1.00 p.m., Respondent No.25 filed the nomination form at 1.12 p.m., and Respondent No.27 at 1.04 p.m.

40. Neither of the affidavits referred to the Affiant’s identical communications addressed to DSW much prior to the filing of the two affidavits. There is no explanation as to why these communications were not referred to and annexed to the affidavits. In these communications, Respondent Nos. 25 and 27 claimed that they were in the DSW office at 12.00 noon, but since other candidates were filing their nominations, these Respondents “remained in a queue”. Thereafter, these communications state that since the time to file nominations was extended by the DSW office, the staff took a lunch break at 1.15 p.m. and resumed accepting forms at 2.00 p.m. The communication alleged that these Respondents’ nomination forms were accepted at 1.12 p.m. and 1.04 p.m., even though they were present at the DSW office to file their nominations before the originally scheduled time.

41. From the perusal of the communications and the affidavits, we find that there is variance. In the communications addressed possibly at the earliest instance, the complaint was that Respondent Nos.25 and 27 remained in a queue even though they had reached the DSW office at 12.00 noon. The allegations in the communications were that there were several candidates filing their nomination papers, as a result of which these Respondents could not file their nomination papers before 1.00 p.m. even though they were very much present in the DSW office for filing their nomination papers before 1.00 p.m.

42. The Goa University, while disputing the above allegations, has produced records indicating the timeline for filing nominations. These records were collated by Mr Kantak and presented as follows:

TIMELINE OF FILING NOMINATIONS

1	11.40
2	11.45
3	11.47
4	11.50
5	11.52
6	11.55
7	11.58
8	12.20
9	12.30
10	12.35
11	12.40

12	12.42
13	12.43
14	12.45
15	12.48
16	12.49
17	12.50

43. The above timeline is based upon a clear and cogent record maintained by Goa University and its officials. None of the parties contested this timeline. This timeline completely belies the contentions of Respondent Nos. 25 and 27 in their communications and their affidavits. If the two Respondents were indeed present at 12.00 noon, it is inconceivable that they would have to wait in the queue up to 1.00 p.m. or beyond 1.00 p.m. for their nomination forms to be accepted. There is a gap of almost 22 minutes between the acceptance of the 7th nomination at 11.58 a.m. and the 8th nomination at 12.20 p.m. Similarly, there is a gap of almost 10 minutes between the acceptance of the 8th nomination at 12.20 p.m. and the 9th nomination at 12.30 p.m. Besides, 11th to 17th nominations were filed and accepted within 10 minutes i.e. between 12.40 p.m. to 12.50 p.m. The record shows that up to 1.00 p.m., only 17 nominations were filed. Thus, the contentions about any queue and the consequent inability to file nominations are completely falsified. That is perhaps the reason why communications were not annexed to the affidavits. To say the least, Respondents 25 and 27 have not been very candid with this Court.

44. That apart even the averments in the affidavits are deliberately vague. Even these vague allegations have been belied by the timeline of filing of nominations produced on record by Goa University collated in a tabular form by Mr Kantak. The timeline is based upon documents placed on record by the Goa University or the statements placed on record by the Goa University from pages 102 to 106 of the paper book. As noted earlier, this timeline was never disputed by any parties.

45. The affidavit filed by Respondent No.30, fortunately, does not contain any serious misstatement of fact. But even Respondent No.30 should have produced along with his affidavit communication addressed by him to the Goa University or its DSW. As noted above, there is a variance between the stance taken in the communication and the stance in the affidavits. Respondent No.30 has not even asserted in his affidavit that he was present before 1.00 p.m. before the DSW but was prevented for any reason from filing his nomination form before 1.00 p.m. Respondent Nos.26, 28 and 29 have not even bothered to file any affidavit despite the service of process in this petition.

46. Mr Langavat's contention based on his interpretation of the amended statute also cannot be accepted. The list of eligible UFRs had already been finalised and published by 28th October 2023. Only because of the GRCs order, some additional UFRs were declared eligible. This does not mean that the list was finalised much later and the time line for filing nominations could commence only after the

publication of the additional list. That would not be the correct construction of the Statute or the correct application to the accepted facts.

47. The university initially erred in accepting the nominations of Respondents 25 to 30. After realising its mistake, the university sought to correct the same. Respondent Nos. 25 to 30 cannot insist that the University perpetuates its mistake. These Respondents cannot claim any vested right to the perpetuation of such mistake merely because such Respondents may have been the beneficiaries of such mistake. There is no question of any estoppel, and none was even raised.

48. Accordingly, we find that Goa University was justified in stating that it would not consider nominations of Respondent Nos. 25 to 30. This is not a case of any illegitimate U-turn by Goa University. However, even assuming that Goa University did take a U-turn, as contended by Mr Faldessai, we must say that Goa University did this upon realising that it had mistakenly entered a 'no entry' zone. No party can legitimately insist that Goa University continues onwards merely because it may be expedient to them in the short run. Accordingly, no case is made out to interfere with this stance of Goa University. In any case, we do not base our decision on the University's concession or decision.

49. The Petitioners have challenged the acceptance of the nominations of Respondent Nos. 25 to 30. Independent of the stance

of Goa University, given our above discussion, we are satisfied that there was no justification whatsoever for accepting the nominations of Respondent Nos. 25 to 30. There is absolutely nothing on record to show what legitimately prevented Respondent Nos. 25 to 30 from filing their nominations by 1.00 p.m. on 30.10.2023. The case of Respondent Nos. 25 to 30 is not at all comparable to the case of 20 UFRs who were included in the list of ineligible UFRs for no fault of theirs or rather on account of default on the part of their colleges and their college Principals.

50. Therefore, if the GRC's decision is to be interpreted as applicable to UFRs like Respondent Nos. 25 to 30, then GRC's decision would be extremely vulnerable and would have to be set aside on the grounds of arbitrariness and non-application of mind. Treating unequals as equals is equally prohibited by the Constitution of India. Respondents 25 to 30 are not discriminated against by treating them differently from Respondents 5 to 7 because equality has to be amongst equals and not unequals. Therefore, independent of Goa University's stance, we have no hesitation in quashing and setting aside the decision to accept the nominations of Respondent Nos.25 to 30.

51. For all the above reasons, we partly allow this petition. We accept the statements made on behalf of Goa University or its Election Committee that nominations of Respondent Nos. 25 to 30 will not be considered. In any case, we quash and set aside the decision to accept the nominations of Respondent Nos. 25 to 30. However, we sustain the

decision of accepting the nominations of Respondent Nos. 5 to 7. As recorded in our order dated 06.11.2023, Goa University is free to finalise the date of the poll on 10th or 11th January 2024. The election process must now be completed on or before 16th January 2024.

52. The rule is made partly absolute in the above terms. There shall be no order for costs. All concerned to act on an authenticated copy of this judgement and order.

VALMIKI SA MENEZES, J

M. S. SONAK, J