

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 366 OF 2017.**

Madhav Atmaram Sahakari

68 years of Age,

Son of Atamaram Sahakari

Residing at H.NO.47/1,

Mestawada, Curti Ponda Goa

.....Petitioner

V/S

1. Aselmo Furtado

Son of Exaltacao Furtado

Age 48 years, Residing at H. No. 64

Choquaiwado, Carmona, Salcete, Goa.

Chairman and duly authorized

Representative of Orlim Dudh Utpadak Sahakari

Sanustha Maryadit Orlim Salcete.

2. Vinayak Poko Pilarnkar

Son of Poki Venkatesh Pilankar

Age 55 years, residing at Mercedes Wadi E-26

P. O. St. Cruz, Tiswadi, Goa.

Chairman and duly authorized

representative of Mercedes Co-op Milk Producers

Society Ltd, Mercedes-Chimbel-Goa.

3. Nitin V. Prabhugaonkar

Son of Vishvanath Shamba Prabhugaonkar

Age 41 years, Residing at H. No. 183

Gaonkar wada, Veling, Mardol, Goa.

Chairman and duly authorized

representative of Tribhuvan Sahakaari Dudh

Vyavsayik Saustha Maryadit, Mardol, Goa.

4. Pramod Vasudev Sidhaye

Son of Vasudev Sidhaye

Age 34 years, Residing at Ho. No. 62

Kanolkar wado, Nanoda, Bicholim, Goa.

Chairman and duly authorized

representative of Nanoda Dudhuyapak Sahakari

Saustha Maryadit, Nanoda, Bicholim, Goa.

5. Vishwas Sukhatankar

Son of Sitaram Narayan Sukhtankar

Age 60 years, Residing at H. No. 386,

Ganpatiwada Khandol, Marcel Ponda Goa.

Chairman and duly authorized

representative of Shri. Shantadurga Sahakari

Dudh Utpadak Vyavsaik Saustha Maryadit.

6. Dattaram Sawant

Son of Atmaram Dattaram Sawant

Age 44 years, residing at H. No. 773,

Sawant wada, Mandrem, Pednem Goa.

Chairman and duly authorized

representative of Shri Bhagwati Sapteshwar Sahakari

Dudh Utpadak Vyavsayik Saustha Ltd.

7. Vijaykant V. Gaonkar

Son of Vithoba Arjun Gaonkar,

Age 43 years, Residing at H. No. 136,

Jakem Netravali Sanguem Goa.

Chairman and duly authorized

representative of Shri Mahamaya Dudh

Utpadak Sahakari Saustha Maryadit Jackem

8. Vaibhav M. Parab

Son of Mohan Shankar Parab
Age 39 years, residing at Varcha wada,
Menkurm, Bicholim Goa.
Chairman and duly authorized
representative of Amthane Sahakari
Dudh Utpadak Saustha Maryadit.

9. Mhalgo Kusdo Gaonkar

Son of Kusdo Malgo Gaonkar
Age 50 years, residing at H. No. 167,
Vargani, Netravali Sanguem, Goa.
Chairman and duly authorized
representative of Netravali Sahakari Dudh
Vyavsaik Saustha Ltd.

10. Durgesh M. Shirodkar

Son of Madhukar D. Shirodkar
Age 46 years, residing at H. No. 808,
Nr. Sai Baba Gogol Margao Goa.
Chairman and duly authorized
representative of Shri Santeri Sahakari Dudh
Vyavsayik Saustha Ltd.

11. Lala Anant Satarkar

Son of Anant P. Satarkar
Age 55 years, residing at H. NO. 1551,
Konem Priol Post Mardol Ponda Goa.
Chairman and duly authorized
representative of Priol Gosavardhan Sahakari
Dudh Vyavasaik Saustha Maryadit.

12. Fondu Gaonkar,
Son of Kushali Gaonkar
Aged about 43 years,
Residing at 602, Gaonkar Wada
Ambavulim, Quepem Goa.
Chairman and duly authorized
representative of Amala Dudh Utpadak
Sahakari Dudh Saustha Maryadit.
13. Orlim Dudh Utpadak Sahakari
Saustha Maryadit. A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Orlim Salcete Goa.
through its Chairman Mr. Aselmo Furtado.
14. Mercedes Co-op. Milk Producers
Society Ltd, A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Mercedes - Chimbél,
through its Chairman Mr. Vinayak Poko Pilarnkar
15. Tribhuvan Sahakari Dudh Vyavsayik
Saustha Maryadit, A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Mardol Goa.
through its Chairman Nitin V. Prabhugaonkar
16. Nanoda Dudh Udyapak
Sahakari Saustha Maryadit,
A Society registered
under the Goa Cooperative
Societies Act 2001
having its registered office

at Nanoda Bicholim
Goa. through its Chairman
Pramod Vasude Sidhaye

17. Shri. Shantadurga Sahakari

Dudh Utpadak Vyavsayik
Saustha Maryadit,
A Society registered
under the Goa Cooperative
Societies Act 2001
having its registered office
at Marcel Ponda Goa.
through its Chairman
Vishwas Sukhatankar

18. Shri Bhagwati Sapteshwar Sahakari

Dudh Utpaday Vyavsayik Saustha Ltd.,
A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Mandrem Pednem,
Goa through its Chairman Dattaram Sawant

19. Shri Mahamaya Dudh Utpadak

Saustha Maryadit Jackem
A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Jackem,
Netravali, Sanguem, Goa.
through its Chairman Vijayakant V. Gaonkar

20. Amthane Sahakari Dudh Utpadak

Saustha Maryadit. A Society registered
under the Goa Cooperative Societies Act 2001

having its registered office at Amthane,
Bicholim – Goa. through its Chairman
Vaibhav M. Parab

21. Netravali Sahakari Dudh

Vyavsayik Suastha Ltd, A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Netravali,
Sanguem, Goa. through its Chairman
Mhalgo Kusdo Gaonkar

22. Shri Santeri Sahakari Dudh Vyavsayik

Saustha Ltd, A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Santemol Raia
through its Chairman Durgesh M. Shirodkar

23. Priol Gosavardhan Sahakari Dudh Vyavsayik

Saustha Maryadit, A Society registered
under the Goa Cooperative Societies Act 2001
having its registered office at Priol Goa.
through its Chairman Mr. Lala Satarkar

24. Amala Dudh Utpadak Sahakari

Saustha Maryadit, A Society registered
under the Goa Cooperative Societies
Act 2001 having its registered office
at Ambauli, Quepem, Goa
through its Chairman Mr. Fondu Gaonkar.

25. The Registrar of Co-operative Societies,

Department of Co-operation,
Sahakari Sakul, Patto Panaji, Goa.

26. Mr. Satish D. Sawant
Co-operative Officer / Spl. Auditor
(Co-op. Societies) and Returning Officer
for Election to the Goa State Co-operative
Milk Producers Union Ltd Office of the Registrar
of Co-operative Societies, Department of Co-operation
Sahakar Sakul, Patto, Panaji, Goa.
27. Goa State Co-operative Milk Producers
Union Ltd, A federal society under the Goa
Co-operative Societies Act 2001, having
its office at Curti, Ponda, through
its Managing Director.
28. Vithoba Datta Dessai
Major in age, residint at H. No. 10
Bhiunsa, Cuncolim, Salcete, Goa.
- 29 Vijaykumar Shankarrao Patil
Major in age, residing at H. No. 74,
Patil Farm, Nanus, Valpoi, Sattari, Goa.
30. Ulhas Panduran Sinari,
Major in age, residing at
H. No. 201, Mestawada, Amona,
T. Bicholim, P. O. Marcella, Amona, Goa.
31. Rajesh K. Phaldessai
Major in age, residing at H. No. 275,
Deulwada, Bali, Quepem, Goa.
32. Rajendra Yeshwant Sawal

Major in age, residing at H. No. 44,
Patradevi, Torse, Pernem, Goa.

33. Naresh Dharma Malik

Major in age, residing at H. No. 68,
Ladfe, Bicholim, Goa.

34. Gurudas Keshav Parab

Major in age, residing at H. No. 140,
Menkurem, Bichoim, Goa.

35. Dhananjay Nandaba Dessai

Major in age, residing at H. No. 73,
Advoi, Sattari, Goa.

36. Babu Narhari Komarpant

Major in age, residing at H. No. 490,
Deubvag, Palolem,
Cancona, Goa.

37. Ajay Laxmikant Dessai

Major in age, residing at H. No. 163/B,
Kurpas, Bandora, Ponda, Goa.

38. Baburao Shrikant Fotto Dessai

Major in age, residing at H. No. 50,
Kakoda, Curchorem, Goa.

39. Vikas Prabhu

Major in age, residing at H. No. 124,
Chafegal, Nirancal, Ponda, Goa.

40. Dinesh Madhav Sahakari

Major in age, residing at H. No. 47,
Mestwada, Curti, Ponda, Goa.

.....Respondents.

Mr. A. D. Bhobe, Advocate for the petitioners.
Mr. A. Kakodkar, Advocate for the respondent nos.1 to 24.
Mr. D. Shirodkar, Addl. Govt. Advocate for the respondent no.25.
Mr. V. Rodrigues, Advocate for the respondent no.27.
Mr. I. Agha, Advocate for the respondent nos.29 and 38.

CORAM: M. S. SONAK, J.
Reserved on 26th April, 2017.
Pronounced on:-2nd May, 2017.

JUDGMENT:

Heard Mr. A. D. Bhobe, learned Counsel for the petitioners,
Mr. A. Kakodkar, learned Counsel for the respondent nos.1 to 24, Mr.
D. Shirodkar, learned Addl. Govt. Advocate for the respondent no.25,
Mr. V. Rodrigues, learned Counsel for the respondent no.27 and Mr. I.
Agha, learned Counsel for the respondent nos.29 and 38.

2. Rule. With the consent of the and at the request of the
learned Counsel for the parties, Rule is made returnable forthwith.

3. The petitioners challenge the judgment and order dated
7.4.2017 made by the Co-operative Tribunal in Co-operative Appeal
No.5/2017 allowing the appeal instituted by the respondent nos.1 to 24
against rejection of their nomination papers for election to the Board
of Directors of the Goa State Co-operative Milk Producers Union Ltd,
("Milk Union " for short). The operative portion of the order reads
thus:-

"Appeal is partly allowed.

The impugned order dated 18.1.2017 and Form-Election 9 dated 20.01.2017 are quashed and set aside.

The Respondent nos.1 and 2 are directed to accept the nomination papers of the Appellants and conduct elections in accordance with law on any convenient day as expeditiously as possible.”

4. Brief facts and circumstances in which such challenge arises are set out hereunder:-

a. Milk Union is a federal society, comprising inter alia, several Co-operative Societies as its members. Its establishment and functioning is governed by Goa Co-operative Societies Act, 2001(“said Act) According to its bye-laws, Board of Directors is to comprise 12 directors. Only the Chairman of all the member societies is eligible to contest the position of the directors of the Milk Union.

b. Elections to the Milk Union were scheduled for 29.1.2017 and the respondent no.26 was appointed as the Retuning Officer.

c. On the date of scrutiny of the nominations papers, the petitioners, raised objection to the nomination papers of the respondent nos.1 to 24 on the ground that resolution of the society authorising the said respondents to represent them was not accompanied by a declaration that no other members is representing society on the Board. It was submitted that this is a requirement as per bye-law 20.1.2 and in the absence of such declaration, nomination

papers are invalid and liable to be rejected.

d. The Returning Officer i.e respondent no.26 by its order dated 18.1.2017 upheld the objection raised by the petitioners and rejected the nomination papers of the respondent nos.1 to 24. Only 15 nomination papers out of total 41 which include 12 nomination papers filed by the petitioners were found to be valid. Out of the 15, 3 chairmen withdrew from the fray and 12 petitioners were declared as elected as unopposed to the Board of Directors of the Milk Union.

e. The respondent no. 26 issued Form-Election9 dated 20.1.2017, declaring that result of the election to the Board of Directors of the Milk Union.

f. On 23.1.2017, the respondent nos. 1 to 24 instituted Writ Petition No.112/2017 questioning Returning Officer order dated 18.1.2017 and consequent result of the election declared on 20.1.2017.

g. The Division Bench of this Court by its judgment and order dated 2.3.2017 disposed of Writ Petition by granting liberty to the respondent nos.1 to 24 to avail the alternate remedy within one week before appropriate Tribunal/Authority. The interim order restraining further action, in pursuance of declaration of result was continued for a period of four weeks.

h. The operative portion of judgment and order dated 2.3.2017, as contained in paragraph 8 to 11 reads thus:-

- “8. We have heard accordingly. Therefore, taking overall view of the matter, without expressing anything on merits of the issue so raised, we are not entertaining the present writ petition as the petitioners have an alternate remedy available under the concerned Statute.*
- 9. By keeping all points open, liberty is granted to the petitioners to invoke appropriate remedy by filing petition/appeal within one week before the appropriate Tribunal/Authority. The concerned Tribunal/Authority to decide the same by giving an opportunity to all the concerned, in accordance with law at the earliest and preferably within four weeks.*
- 10. Interim order so granted by this Court, as recorded above, has been in force till this date. Therefore, to avoid complications, we are inclined to continue the same for a period of four weeks, within which time, it is expected that, subject to parties co-operation, the Tribunal/Authority shall decide the issue in accordance with law.*
- 11. The petition is accordingly disposed of, with liberty so expressed. No costs.”*

i. The respondent nos.1 to 24 on 9.3.2017 instituted Co-operative

Appeal no.5/2017 before the Co-operative Tribunal to question the Returning Officer's order dated 18.1.2017 and Form-Election 9 dated 20.1.2017 i.e result of election to the Board of Directors of the Milk Union. Interim Relief was also applied for, pending the disposal of the proceedings before the Co-operative Tribunal.

j. The Co-operative Tribunal by order dated 30.3.2017 granted, interim relief, in terms of para 11 which reads thus:-

“In my considered opinion the Appellants have made out prima facie case for grant of interim relief. The balance of convenience is also in favour of the Appellants. The reliefs claimed in the appeal shall be rendered infructuous if interim relief is not granted.

Considering that the challenge is to the entire election process and keeping all the objections of the Respondents open it would be appropriate to direct that no further action be taken on the basis of the Form-Election 9 dated 20.01.2017 issued by the Respondent no. 2.

The respondents shall not take further action on the basis of Form-Election 9 dated 20.01.2017 issued by the Respondent no.2 till further order.”

k. Thereafter Co-operative Tribunal, by impugned judgment and order dated 7.4.2017, has allowed the appeal instituted by the

respondent nos.1 to 24, set aside the Returning Officer's order dated 18.1.2017, results of the election to the Milk Union dated 20.1.2017 and directed authorities to conduct election in accordance with law as expeditiously as possible.

l. The Returning Officer, in pursuance of the impugned judgment and order, has by notice dated 18.4.2017 declared fresh election scheduled for 7.5.2017. A detailed election schedule has been published in accordance with Rule 63(1) of the Goa Co-operative Rules ("the said Rules")

m. The petitioner i.e. 12 directors who were declared elected unopposed on 20.1.2017 and whose election now stands set aside, have instituted present petition, questioning Co-operative Tribunal's Judgment and order dated 7.4.2017 (impugned judgment and order).

4. Mr. A. D. Bhobe, learned Counsel for the petitioners has made following submissions in support of the petition:-

a. The proper mode to question an election was to seek reference of dispute under Section 83 of the said Act to the Co-operative Tribunal within a period of 30 days from the date of declaration of the result of the election. There is no appeal provided under the provisions of said Act to question an election. Appeal instituted by the respondent nos. 1 to 24 was therefore, incompetent and deserved dismissal at the threshold.

b. Assuming that the appeal instituted by the respondent nos. 1 to 24 was required to be treated as a dispute under Section 83 of the said Act, admittedly, the same was instituted on 9.3.2017 i.e. about 39 days after the date of declaration of the result of the election. Section 83(1) provides that the dispute has to be referred to the Co-operative Tribunal within a period of 30 days from the date of declaration of the result of the election. There is delay of about 9 days in the institution of the dispute. The proviso to sub section (1), empowers Co-operative Tribunal to condone the delay. However, in the present case, there was no application for condonation of delay. Clearly therefore, the dispute was time barred and Co-operative Tribunal lacked jurisdiction to entertain the same.

c. The respondent nos. 1 to 24 failed to implead the persons whose nominations were accepted by the Retuning Officer and who withdrew from the fray as the respondents, to the appeal before the Co-operative Tribunal. Similarly, the respondent nos.1 to 24 also failed to implead those persons whose nominations were rejected by the Retuning Officer to the appeal before Co-operative Tribunal. Such persons were necessary parties and therefore their absence, appeal/dispute was required to be dismissed for non-joinder of necessary parties.

d. This was clear case of non-compliance with the requirements prescribed by law 20.1.2, as admittedly, the respondent nos.1 to 24

alongwith resolution produced by them authorising them to represent their respective societies, had failed to produce a declaration that no other members is representing the society on the Board. This was a mandatory requirement and since, this was not fulfilled, the Retuning Officer was perfectly justified in rejecting the nomination papers of the respondent nos.1 to 24. The Co-operative Tribunal has misinterpreted the provisions of bye-laws as applicable only in case of bye elections and the impugned judgment and order is therefore liable to be set aside.

e. The impugned judgment and order, to the extent, it holds that defect in the nomination papers was not of substantial character, is illegal, unacceptable and therefore liable to be set aside.

f. Mr. Bhobe, has placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Ketan V. Parekh Vs. Special Director, Directorate of Enforcement and another, Civil Appeal No. 10301 of 2011 decided on 29.11.2011** and decision in **Raj Kumar Shivhare Vs Assistant Director, Directorate of Enforcement and another, (2010) 4 SCC 772**, in support of his submission that delay could not have been condoned or time spent before the Hon'ble High Court could not have been excluded, unless there was specific application with specific averments.

5. Mr. V. Rodrigues and Mr. I. Agha, learned Advocates adopt

the submissions of Mr. A. Bhobe and submit that impugned judgment and order is liable to be set aside.

6. Mr. D. Shirodkar, learned Addl. Govt. Advocate for the respondent no.25 submits that in terms of the proviso to Section 83 of the said Act the Co-operative Tribunal has the power to entertain a dispute after expiry of 30 days period, provided since sufficient cause is shown. He submits that in the facts and circumstances of the present case, it cannot be said that the Co-operative Tribunal exceeded jurisdiction by entertaining the dispute. He however, submits that the Returning Officer is bound by bye-laws of the society and therefore, there was nothing wrong in the action of the Returning Officer in rejecting the nomination papers of the respondent nos.1 to 24.

7. Mr. A. Kakodkar, learned Counsel further respondent nos.1 to 24 submits that the said respondents had earlier instituted a Writ Petition before this Court questioning the rejection of their nomination papers and election on the basis of the same. This Court relegated the respondents to avail of the alternate remedy as provided under Section 83 of the said Act. This Court, in its judgment and order dated 2.3.2017 quoted and made specific reference to the provisions contained in Section 83 of the said Act. Liberty was also granted to the respondents to avail alternate remedy by filling petition/appeal within one week before the appropriate Tribunal/Authority. Mr. Kakodkar, submits that though, the respondents, styled the

proceedings as an appeal, it is quite clear that the proceedings are under Section 83 of the said Act.

8. Further Mr. Kakodkar, submits that issue of limitation was never raised by the petitioners at the stage of disposal of the Writ Petition No.112/2017 on 2.3.2017. The petitioners did not even object to the liberty granted by this Court to the respondents to invoke appropriate remedy by filing petition/appeal within one week before the appropriate Tribunal/Authority. This means that objection, if any, in relation to limitation, was clearly waived.

9. In any case, Mr. Kakodkar, submits that from the material on record, it is apparent that there was sufficient cause for raising the dispute about 9 days after prescribed period of limitation. He submits that the respondent, well within the period of 30 days of the date of declaration of result of the election, had instituted Writ Petition No.112/2017 before this Court. The Petitioner were bonafide pursuing the matter before this Court. Ultimately, this Court in its order dated 2.3.2017 granted a liberty to the respondents to file petition/appeal. The petition/appeal was in fact instituted within 7 days from 2.3.2017 in terms of the liberty granted. The Tribunal has ample powers to entertain a petition beyond prescribed period of limitation once sufficient cause exists.

10. Mr. Kakodkar, also submits that this is not at all a case of

non joinder of necessary parties and Co-operative Tribunal was quite right in rejecting such contention. He submits that the bye-law as regards submission of declaration applies only to bye election and not to general election as in the present case. He submits that even otherwise it will be impossible for any society whose member is representing society on the board, to nominate any chairman to contest general election. In any case, he submits that non furnish of such declaration by the society can never be regarded as any default of substantial character. In this case there was no opportunity granted to the respondent nos.1 to 24 to submit such declaration.

11. Mr. Kakodkar, submits that managing director who addressed communication to all the societies on 18.8.2016 also made no reference to any such declarations. He submits that for the past several terms no such declaration have either been attached alongwith resolutions or were insisted upon. He submits that even the provisional voters list was finalised without insistence upon any such declaration.

12. Mr. Kakodkar, submits that the petitioners wish to cling of power without wanting to face the electorate. He submits that petitioners actions with the support of the Returning Officer are subversive of democratic principles. He submits that when technical objections are pitted against the substantial justice, it is the later which must be allowed to prevail. He submits that the impugned judgment and order promotes substantial justice and therefore, this

Court, in exercise of equitable jurisdiction under Sections 226 or 227 of the Constitution of India ought not to interfere with the impugned judgment and order and permit the petitioners to govern the Milk Union for a term of 5 years without facing the electorate and on the basis of some technicalities not of any substantial nature.

13. Mr. Kakodkar, relied upon the decisions of the Hon'ble Supreme Court in case of **Mohd. Swalleh Vs. IIIrd ADJ, (1988) 1 SCC 40, Ramesh Chandra Sankla and others Vs. Vikram Cement and others, (2008) 14 SCC 58**, in support of doctrine of substantial justice. He relied upon the decision of Division Bench of this Court in the case of **Small Scale Entrepreneurs Association and ors. Vs. State of Maharashtra and ors. 2007(3) Bom. C. R. 496** in support of his submission that when the Court relegates a party to avail alternate remedy, it also has power to issue directions to the authority to which to hear the party is relegated. He relied upon the decision in the case of **Danda Rajeshwari Vs. Bodavula Hanumayamma and others 1996(6) SCC 199**, in support of the same proposition. For all these reasons, Mr. Kakodkar, submits that this petition may be dismissed with exemplary costs.

14. The Rival contentions now fall for my determination.

15. Section 83(1) of the said Act provides that notwithstanding anything contained in any other law for the time being in force, any

dispute touching the election to the Board of Directors or the office bearers of the society shall be referred by any of the parties to the dispute, to the Co-operative Tribunal within a period of 30 days from the date of declaration of the result of the election. The proviso provides that, the Co-operative Tribunal may entertain such dispute after expiry of such period, if the party aggrieved satisfies the Co-operative Tribunal that he had sufficient cause for not referring the dispute within aforesaid period.

16. In the facts and circumstances of the present case, as enumerated earlier, the nomination papers of respondent nos.1 to 24 were rejected by the Returning Officer on 18.1.2017 and on 20.1.2017 the petitioners were declared elected as unopposed to the Board of Directors of the Milk Union. There is no dispute that the respondent nos. 1 to 24 within hardly three days from the date of declaration of the result i.e 23.1.2017 instituted a Writ Petition no.112/2017 before this Court. The petition was disposed of by this Court vide judgment and order dated 2.3.2017 granting specific liberty to the respondent nos.1 to 24 to invoke appropriate remedy by filing petition/appeal within one week before the appropriate Tribunal/Authority. The judgment and order dated 2.3.2017 was made after hearing the petitioners/their advocate and after upholding the preliminary objection raised by the petitioner to the effect that the respondent nos.1 to 24 have an alternate remedy in terms of Section 83(1) of the said Act by instituting appropriate proceedings before the Co-operative

Tribunal.

17. There is no dispute that the respondent nos.1 to 24 instituted proceedings before the Co-operative Tribunal within a period of one week in terms of the liberty granted by this Court in its judgment and order dated 2.3.2017. Before the Co-operative Tribunal, the petitioners raised a hyper technical objection that the proceedings initiated on 9.3.2017 could not have been regarded as proceedings instituted “within one week” from the date of judgment and order dated 2.3.2017. The Co-operative Tribunal has dealt with and rejected such objection in great detail. Fortunately, such objection was not repeated before this Court and therefore does not find reference in the submissions of Mr. Bhobe at paragraph 4 of this judgment and order.

18. Although it is true that the respondent nos.1 to 24 styled the proceedings instituted by them before the Co-operative Tribunal as “Appeal” and further, even the Co-operative Tribunal numbered the said proceedings as “Co-operative Appeal No. 5/2017” there is no doubt whatsoever that the proceedings are referable to the remedy available to the respondent nos. 1 to 24 under Section 83(1) of the said Act. Mere nomenclature of such proceedings as “Appeal” therefore, makes no difference whatsoever to the exercise of jurisdiction by the Co-operative Tribunal under Section 83(1) of the said Act. It is settled position in law that mere reference to any incorrect legal provision or some incorrect nomenclature of the proceedings does not denude the

authority of the power or jurisdiction, which it otherwise possesses in terms of the provisions of Act in question. There is substance in the submission of Mr. Kakodkar, that the objection was too hyper technical and the same was rightly rejected by the Co-operative Tribunal.

19. It is also not possible to accept the contention that proceedings under Section 83(1) of the said Act, having been instituted about 9 days after the expiry of period of limitation of 30 days to question the election and could not have been entertained in the absence of any specific application seeking condonation of delay. As noted earlier, the respondent nos.1 to 24 had instituted Writ Petition no.112 of 2017 before this Court within hardly 3 days from the date of declaration of the result of the election. Thereafter, the respondent nos. 1 to 24 were pursuing the matter diligently and even bonafide before this Court upto 2.3.2017. On 2.3.2017, this Court after upholding the objection on the basis of alternate remedy raised by the petitioners specifically granted respondent nos.1 to 24 liberty to institute the petition/appeal before the appropriate Tribunal/Authority within one week. The directions were issued to dispose of the said proceedings as early as possible and preferably within four weeks. For a period of four weeks certain interim relief was also granted. There is no dispute that the respondent nos. 1 to 24 instituted proceedings before the Co-operative Tribunal within a period of one week. All this is more than sufficient to hold that the respondent nos.1 to 24 had more than sufficient cause for not referring the dispute to the Co-

operative Tribunal within a period of 30 days from the date of declaration of the election result. Proviso to Section 83(1) specifically empowers Co-operative Tribunal to entertain a dispute after expiry of period of 30 days from the date of declaration of result of the election, where aggrieved party satisfies the Co-operative Tribunal that it had sufficient cause for not referring the dispute within aforesaid period. The jurisdiction of the Co-operative Tribunal depends upon the existence of the sufficient cause, its satisfaction as regards the existence of sufficient cause and not upon the filing of application seeking condonation of delay or application seeking extension of time. The contention that Co-operative Tribunal lacked jurisdiction to dispose of the dispute in the absence of separate application seeking for condonation of delay or exclusion of time in the facts and circumstances of the present case, cannot be accepted.

20. The decision of the Hon'ble Supreme Court in **N. Balaji Vs Virendra Singh and others, (2004)8 SCC 312** affords a complete answer to the aforesaid contention of Mr. Bhobe, on the aspect of insistence upon a formal or separate application for condonation of delay or extension of time. In this case, challenge was to the election of the directors of society and Section 75(1)(d) of the Multi-State Co-operative Societies Act, 1984 had provided limitation of one month for institution of such challenge. The petitioners had commenced making representation from the stage of finalisation of the publication of the list of voters. The petitioners had been complaining about enlisting of

ineligible voters and had applied for delisting of the same. The election was ultimately held on 17.8.2002. On 21.8.2002 the petitioners made a representation to the Ministry concerned as regards irregularities in the publication of the voters list and consequent election in pursuance of the same. Since, no cognizance was taken of the representation by the Ministry, the petitioner instituted a petition in the High Court. The High Court vide its order dated 5.12.2002 directed the Authority/Minister concerned to consider the representation of the appellant dated 21.8.2002 and make appropriate order within one month from the date of receipt of the order of the Court. The Minister took stand that Section 84 of the Muti-State Co-operative Societies Act, 2002 provides for settlement of disputes including a dispute arising in connection with the election of any officer of the Multi-State Co-operative Society through an arbitrator appointed by the Central Registrar, therefore the appellant had to approach the appropriate authority in the appropriate proceedings. Aggrieved by the said order, the petitioners once again approached the High Court. Before High Court the respondents i.e elected directors submitted that they had no objection if matter was referred to Central Registrar, for deciding the election dispute but they further submitted that if the dispute was barred by limitation, it should be open for the respondents to raise such objection. The High Court directed all the representations or any other petition containing the disputes regarding setting aside of the election of the Board of Directors held on 17.8.2002 to be referred to the Central Registrar for

adjudication under the Act of 1984. Thereafter, a proper dispute petition for deciding the dispute relating to election of the Board of Directors was filed before the Central Registrar on 30.4.2003. An objection was raised by the elected directors that the dispute was barred by limitation as it was not filed within one month from the date of declaration of the result. The Central Registrar took note of the fact that the dispute to the election had been raised on 2.8.2002, 12.8.2002, 16.8.0222 and by the petition dated 21.8.2002 and therefore rejected the objection. The Division Bench of the High Court however, set aside the order of the Central Registrar and held that in view of Section 75(1)(d) of the Multi-State Co-operative Societies Act, 1984 election dispute was barred by limitation. It also held that appellant having not filed any application for condonation of delay in filing the election dispute beyond the period of limitation, the Central Registrar Could not have exercised the power to condone the delay.

21. Aggrieved, the petitioners instituted a Civil Appeal before the Hon'ble Supreme Court. The Supreme Court set aside the decision of the High Court and upheld the decision of the Central Registrar.

22. In paragraphs 9 to 12 the Hon'ble Supreme Court has held as follows:-

9. *Before we consider the respective submissions so made it would be appropriate to re-produce the relevant portion of [Section 75\(d\)](#) and sub-s.(3) of Sec.75 of the Act, which reads as under :-*

"[Section 75](#): Limitation (1) Notwithstanding anything contained in the [Limitation Act](#), 1963 (36 of 1963), but subject to the specific provisions made in this Act; the period of limitation in the case of a dispute referred to the Central Registrar shall,---

(a)-(c)

(d) when the dispute is in respect of an election of an officer of a multi- State co-operative society, be one month from the date of the declaration of the result of the election.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Registrar may admit a dispute after the expiry of the period of limitation , if the applicant satisfies the Central Registrar that he had sufficient cause for not referring the dispute within such period.

Relevant provision of [Section 74\(1\)](#) read with Section 74(1) (C) of the Act of 1984 provides that notwithstanding anything contained in any other law for the time being in force, if any dispute arises amongst the members in connection with the election of any officer of the multi-State cooperative society (officer, includes the member of the Board by virtue of definition of Officer in Sec.3 (o) of the old Act), it shall be referred to the Central Registrar for decision and no Court has jurisdiction to entertain any such or other proceedings in respect of such dispute. Thus whenever there is a dispute among the members in connection with the election of a member of the Board, it shall be referred to Central Registrar for decision. Clause (d) of [Section](#)

75 postulates that the election dispute of the member of the Board of a multi-State Cooperative Society is to be raised within one month from the date of declaration of the result of the election. Sub-s.(3) of Sec.75 authorizes the Central Registrar for the sufficient cause to admit a dispute after the expiry of the period of limitation if the Central Registrar is satisfied of the sufficiency of the cause of raising the dispute beyond the period of limitation. In the present case it is apparent that the dispute has been raised prior to conduct and declaration of the result of election by the appellant by making representation on 23.7.2002 and 7.8.2002 and on other dates regarding validity of the electoral roll for the conduct of the election and on 21.8.2002 after the election has been held. The appellant approached the Delhi High Court by way of writ petition also. A direction was issued by the Delhi High Court by its order dated 28.2.2003 in specific terms that the representation of the petitioner raising dispute or any other petition containing the dispute regarding setting aside election of the Board of Directors held on 17th August 2002 be referred to the Central Registrar for adjudication under the Act of 1984. The direction in unequivocal terms directs consideration of all the representations or any other petition containing the dispute regarding the election to be referred to the Central Registrar for adjudication. The dispute or the representation made by the appellant regarding the electoral roll would also be a dispute regarding the election held on 17th of August 2002 apart from the dispute to the election

raised by the petitioner after the election by his representation dated 21.8.2002 sent to the Minister concerned. The High Court of Delhi directed the Central Registrar to decide the said dispute within a period of four months. Direction of the High Court clearly contemplates decision on all the petitions raising disputes to the election held on 17th August 2002 within a period of four months. The Court has not left open the question of limitation to be considered while giving directions to decide the dispute within four months. Directions issued by the Court do not in any way specify that the question of limitation will be decided by the Central Registrar. It was only the submission made by counsel for the respondent which was noted by the Court and in spite of the submission being noted on the question of limitation, the said objection was not left open for consideration by the Central Registrar. What was filed on 30.4.2003 before the Central Registrar was only a consolidated dispute petition incorporating all the objections to the election raised by him from time to time. The petition dated 30.4.2003 has to be read in continuation of the several representations and objection petitions filed earlier, from time to time and cannot be considered to be a separate and independent petition. The petition dated 30.4.2003 is a consolidated version of various grounds raising dispute to election in required format so as to facilitate the tribunal to adjudicate and decide all the questions raised after giving adequate opportunity of hearing to all parties. An election dispute raised before or referred to the Central Registrar does not attract application of any

rigorous rules of pleadings in a the civil suit under the Civil Procedure Code or the election petition filed under the provisions of [Representation of People Act 1951](#).

10. In the matter of applicability of the procedural rigors the Constitution Bench of this Court in *Sardar Amarjeet Singh Kalra (dead) by Lrs. and Others Vs. Pramod Gupta (Smt)(Dead) by Lrs. and Others* (2003) 3 SCC 272 has observed that laws of procedure are meant to regulate effectively, assist and aid the object of substantial and real justice and not to foreclose even an adjudication on the merits of substantial rights of citizen under personal, property and other laws. With the march and progress of law, the new horizons explored and modalities discerned and the fact that the procedural laws must be liberally construed to really serve as handmaid, make it workable and advance the ends of justice, technical objections which tend to be stumbling blocks to defeat and deny substantial and effective justice should be strictly viewed for being discouraged, except where the mandate of law inevitably necessitates it. **It follows from the decision by the Constitution Bench that the procedure would not be used to discourage the substantial and effective justice but would be so construed as to advance the cause of justice. The consolidated petition filed on 30th April, 2003 filed by the petitioner would not be taken to be a new petition presented before the Central Registrar to declare it to be barred by limitation on the**

basis of its date of presentation; it shall have to be read in continuation of the earlier representation which were referred to the Central Registrar for adjudication under the orders of the Delhi High Court.

11. ***The matter can be looked from the other angle as well. Sub-s.(3) of Sec.75 of the 1984 Act authorizes the Central Registrar to condone the delay in referring the dispute if the Central Registrar is satisfied that there was a sufficient cause for not referring the dispute within the period of limitation. The requirement of sub-s.(3) is the satisfaction of the Central Registrar for the sufficient cause, and is not dependent on moving of an application for condonation of delay by the petitioner. Even without there being any application for condonation of delay, if the facts which emerge in the case are sufficient to satisfy the Central Registrar of the reasonable cause for not referring the dispute within the period of limitation, the Central Registrar can condone the delay in exercise of the powers conferred on him under sub-s.(3) of Sec.75 of the Act.***

12. *On the facts emerging in the case, we find that the discretion which has been exercised in the facts and circumstances of the case in condoning the delay by the Central Registrar is in accordance with the established principles of law and justice and it was not a fanciful or arbitrary exercise of discretion. The exercise of the discretionary power can be*

interfered by the High Court only if the order passed is violative of some fundamental or basic principle of justice and fair play or suffers from any patent or flagrant error. We do not find any such element present vitiating the exercise of power vesting in the Central Registrar to condone the delay and entertain an election dispute.

(Emphasis supplied)

23. In material aspects provisions contained in Section 83(1) of the said Act or for that matter Section 85(1)(d) and Section 85(3) of the said Act are almost similar to the provisions contained in Section 75(1) (d) and Section 75(3) of the Multi-State Cooperative Society Act, 1984. Both sets of provisions prescribe Limitation period of 30 days to question the election of the officer bearers of the society. Both the sets of provisions contain provisions which begin with non obstante clause which empowers the authority which is to adjudicate upon election dispute to admit and adjudicate such dispute after the expiry of period of limitation, if the applicant satisfies the authority that he had sufficient cause for not referring the dispute within such period.

24. The Hon'ble Supreme Court after noting its decision in the case of Sardar Amarjit Singh Kalra Vs. Pramod Gupta (2003)3 SCC 272 wherein it is held that laws of procedure are meant to regulate effectively, assist and aid the object of substantial and real justice and not to foreclose even an adjudication on the merits of substantial rights of citizen under personal, property and other laws has held that

dispute was rightly entertained on merits. Further, the Hon'ble Supreme Court, in terms has held that since sub-section 3 of Section 5 of the Muti-State Co-operative Societies Act, 1984 authorizes the Central Registrar to condone the delay in referring the dispute if the Central Registrar is satisfied that there was a sufficient cause for not referring the dispute within the period of limitation, there was nothing wrong in the Central Registrar referring the dispute upon satisfaction that there existed sufficient cause.

25. The Hon'ble Supreme Court in terms has held that the requirement of sub-s.(3) *"is the satisfaction of the Central Registrar for the sufficient cause, and is not dependent on moving of an application for condonation of delay by the petitioner. Even without there being any application for condonation of delay, if the facts which emerge in the case are sufficient to satisfy the Central Registrar of the reasonable cause for not referring the dispute within the period of limitation, the Central Registrar can condone the delay in exercise of the powers conferred on him under sub-s.(3) of Sec.75 of the Act."*

26. In view aforesaid and in the facts and circumstances of the present case, which are substantially similar, it is not possible to uphold Mr. Bhobe contention that the impugned judgment and order is without jurisdiction because the respondent nos.1 to 24 had not filed any formal application seeking condonation of delay or extension of period spent before the High Court in pursuing the Writ Petition

no.112 of 2017. The decision of the Hon'ble Supreme Court in **N. Balaji** (supra) affords a complete answer to this contention.

27. The decision in the case of **Ketan Parekh**(supra) and **Raj Kumar Shivhare**(supra) relied upon by Mr. Bhobe are in the context of facts which offer no parallel whatsoever to the facts and circumstances of the present case. In the facts of those cases, the Hon'ble Apex Court held that there was no material on record to demonstrate sufficient case or to demonstrate that the parties were prosecuting the matter before an incorrect forum with due diligence and bonafide. Such facts do not obtain in the present case.

28. In **Small Scale Entrepreneurs Association** (supra), the Division Bench of this Court has held that when the Court relegates a litigant to the alternative remedy of an appeal or such other similar remedy it has the power to issue directions to the authority to hear the matter which is relegated. This is relevant in this context of directions issued by the Division bench of this Court while disposing of Writ Petition No.112/2017 and granting respondents nos.1 to 24 liberty to avail appropriate remedy within one week before the appropriate Tribunal/Authority.

29. In **Danda Rajeshwari** (supra) a writ petition was filed before the High Court immediately after the declaration of result of the election of the panchayat. Since the election had already been held,

the High Court directed the parties to avail statutory remedy to file election petition before the Tribunal within a period of three weeks from the date of the disposal of the Writ Petition. Order was challenged on the ground that the statutory rules contemplated filing of election petition within 30 days from the date of declaration of result of the election. The Supreme Court however, up held the order of the High Court by observing thus:-

“The remedy is statutory remedy and limitation is one of the candidates to entertain election petition. By judicial order the limitation cannot be nullified. In support thereof, he placed reliance on the judgment of this Court in [Union of India & Anr. v. Kirloskar Pneumatic Co. Ltd.](#) [(1996) 4 SCALE 317]. We find no force in his contention. It is not his case that the High Court lacks jurisdiction to entertain the writ petition against the election of a Sarpanch and declaration of the result of the election of a Sarpanch, etc. The High Court exercising its power under [Article 226](#) of the Constitution declined to interfere in the election disputes since alternative remedy of filing election petition and adjudication has been provided in the relevant statutory rules. Far from saying that the High Court has no jurisdiction, High Court exercised self restraint in exercise of the power under [Article 226](#) and directed the parties to avail of alternative remedy. In this admittedly, the elections of Sarpanch was held result was declared on June 24, 1995

and the writ petition was filed on June 25, 1995. Power of the Government on the process of electoral rolls was challenged in a batch of writ petitions. The writ petition in question is also one of such writ petitions. Under the circumstances the High Court thought it expedient that since elections were already held, the disputed questions of facts would be canvassed in an election petition as provided In Rule 3 of the Rules, the High Court rightly declined to investigate into disputed question of facts and refused to go into the question relegating the parties to pursue the remedy of election dispute. In view of this the High Court has rightly directed filing of the election petition within three weeks from the date of disposal of the writ petition and further directed the Tribunal not to go into the question of limitation and instead decide the matter on merits.....”

30. There is no merit in the submission based upon non joinder of the necessary parties . All the 12 petitioners i.e directors who were elected unopposed consequent upon the rejection of the nomination papers of the respondent nos. 1 to 24 were duly impleaded parties before the Co-operative Tribunal. There was no provision pointed out which required impleadment of parties whose nomination papers had been accepted but who withdrew from the fray so as to enable the petitioners to be declared elected unopposed. No provision was pointed out which required impleadment of members whose

nominations were rejected by the Returning Officer. The impugned judgment and order has in no manner prejudiced such members rather, such members, by virtue of impugned judgment and order now have an opportunity to contest the fresh election which are scheduled to take place on 7.5.2017. The objection based upon the non impleadment of parties was therefore rightly rejected by the Co-operative Tribunal.

31. Coming to the ground of rejection of nomination papers of respondent nos.1 to 24 by the Returning Officer, reference is necessary to bye law 20 of the society which reads thus:-

20.1 Qualification of representative of ordinary members for contesting election of the board.

20.1 No representative of a member society shall be eligible for election as a Director of the Board unless the society he represents.

20.1.1. Has fulfilled all the obligations as mentioned in the Bye-laws 13 as on 31st March of the preceding year.

20.1.2 Has resolved authorizing him to represent and a copy of the resolution in this behalf is received by the Union along with the declaration that no other member is representing the society on the board.

32. The Co-operative Tribunal, in the impugned judgment and order, has not only quoted aforesaid bye-law but also quoted and referred to statutory provisions contained in the said Act and Rules. Since, the bye-law is to be read and construed in the light of the statutory provisions. The Co-operative Tribunal has also correctly referred to decision of the Hon'ble Supreme Court in the case of **Babaji Kondaji Garad and ors. Vs. Nasik Merchants Co-operative Bank Ltd., Nasik and ors, AIR 1984 SC 192** which holds that Bye-law of a co-operative society can at best have the status of an Article of Association of a company governed by the [Companies Act](#), 1956 and as held in *Cooperative Central Bank Ltd., v. Addl. Industrial Tribunal, Andhra Pradesh* the bye-laws of a co-operative society framed in pursuance of the provision of the relevant Act cannot be held to be law or to have the force of law. They are neither statutory in character nor they have statutory flavour so as to be raised to the status of law. Now if there is any conflict between a statute and the subordinate legislation, it does not require elaborate reasoning to firmly state that the statute prevails over subordinate legislation and the bye-law if not in conformity with the statute in order to give effect to the statutory provisions, the rule or bye-law has to be ignored. The statutory provision has precedence and must be complied with.

33. The Co-operative Tribunal in the impugned judgment and order after taking note of the circumstance that every society can only authorise its chairman as on 31st march preceding the election to

contest at the election to the Board of Directors and further that every society is permitted to have only one member representing it on the Board, has held that bye-law 20.1.2 will apply only in the case of bye elections and will have no applicability to a general election.

34. The view taken by the Co-operative Tribunal cannot be said to be implausible or irrational in the facts and circumstances of the present case. Provisions of bye-laws, said Act and the said Rules provides that the members comprising the Board of Directors will continue in office not just till the end of their term but until new board after general election assumes office. If the bye-law 20.1.2 is to be strictly applied also in case of general election, then, several societies , whose chairmen are already directors on the Board will be disabled from furnishing a declaration in terms of bye-law 20.1.2 to the effect that *“no other members **is** representing the society on the board.”* In this context of general election, such a declaration is quite redundant. However, declaration as contemplated by bye-law 20.1.2 is quite relevant in the context of bye election so as to ensure that any given society has not more than one member representing the society on the board. Thus, construed, it cannot be said that the view taken by Co-operative Tribunal in the facts and circumstances of the present case, suffers from any illegality or irrationality.

35. In any case, Co-operative Tribunal is quite right in the facts of the present case to place reliance upon Rule 69(4) of the said Rules

which provides that the Retuning Officer shall not reject any nomination papers on the ground of any defect which is not of substantial character.

36. In the present case, out of 41 nomination papers received, 26 nomination papers had no declarations in terms of bye-law 20.1.2. The Retuning Officer based upon the objection by the petitioners proceeded to summarily reject 26 out of the 41 nomination papers received. Since, the Law required the societies to nominate only their chairman to contest to the Board of Director, requirement, of furnishing the declaration, especially when it is a case of general election, could hardly have been regarded as a requirement of a substantial character. In any case, defect of not furnishing such declaration could hardly have been regarded as a defect which was of a substantial character.

37. The material on record does establish that in respect of earlier general elections requirement of annexing the declaration was neither complied with nor insisted upon in most cases. Notwithstanding, non compliance, authority under the said Act and the said Rule found no defect in preparing voters list even on the present occasion. The Managing director of the Union by his communication dated 18.8.2016 addressed to all the societies which comprises the milk union and forwarded a format for the compliance with requirement in bye-laws which include bye-law 20.1.2. Neither in the

communication dated 18.8.2016 nor in the format attached, was any reference made to the declaration of bye-law 20.1.2. All these is relevant, applying the principle of "*contemporanea expositio*" to suggest that even the authorities never regarded compliance with declaration as essential for a general election to the Board of directors or in any case as some requirement of substantial character.

38. In this case, Retuning Officer, did not even hold any summary inquiry as is contemplated by Rule 69(2) or afford any opportunity to the respondent nos. 1 to 24 to rectify the so called defect. Societies, which had resolved to authorise respondent nos. 1 to 24 to represent them and had also forwarded copy of the resolution would have had no difficulty whatsoever in declaring that which was obvious i.e. that no other member was representing the society on the Board. At the highest it can be said that what bye-law 20.1.2 required was that societies shall have not more than one representative on the Board of the Milk Union. However, mode of proof in such matter is directory, particularly when it comes to a general election. Any other interpretation might perhaps render the existing members of the Board of Directors unintentionally, illegible to contest the election to the Board of Directors, because, no societies in case of a general election, may be able to furnish a declaration that no other member **is** representing society on the board when in fact, their existing chairman may be member of the Board on the date of filing of the nomination papers. For all these reasons there is no case made out for

interference with the impugned judgment and order.

39. The view taken by the Co-operative Tribunal in the present case, also promotes substantial justice. In this case, on the basis of a mere technicality, Returning Officer rejected the nomination papers of not less than 26 out of 41 candidates who had submitted nomination papers. Out of the remaining 15 candidates, 3 withdrew or as contended by Mr. Kakodkar, were persuaded to withdraw and 12 petitioners were thereby declared elected unopposed. To this extent, there is merit in the submission of Mr. Kakodkar that democratic principles which ought to have inhered election process were rendered a casualty.

40. Possibly, taking note of this circumstances, this Court, in Writ Petition No.112/2017 granted interim relief restraining the petitioners from assuming office from the Board of Directors of the Society. The interim relief was continued by the Co-operative Tribunal by its order dated 30.3.2017. The impugned judgment and order merely directs authority to hold fresh election and the authority, have already notified election programme in order to hold fresh election on 7.5.2017.

41. The Hon'ble Supreme Court in the case of **Vipulbhai M. Chaudhary Vs. Gujarat Co-operative Milk Marketing Federation Limited and others, (2015) 8 SCC 1** *has held that democratic*

functioning is an essential feature of Co-operative societies. In case of Co-operative societies, after the amendment of the constitution, there has to be Board of elected representatives, which may be when as Board of directors to which members entrust the direction and control of the management of the affairs of the society. That representative body then select one among the elected representatives as its Chairman or any other office bearer, as the case may be. Selection is the act of carefully choosing someone as the most suitable to be the leader or office bearer. In a democratic institution, confidence is the foundation on which the superstructure of democracy is built. The bedrock of democratic accountability rests on the confidence of the electorate. If the representative body does not have confidence in the office bearer whom they selected, democracy demands such officer to be removed in a democratic manner. A cooperative society is registered on cooperative principles of democracy, equity, equality and solidarity. Democratic accountability, mutual trust, fairness, impartiality, unity or agreement of feeling among the delegates, cooperativeness, etc., are some of the cardinal dimensions of the cooperative principles.

42. If all such principles as held by the Hon'ble Supreme Court are to be applied to the functioning of the milk union in this case, then it is only proper that the petitioners face electorate and the electorate also has opportunity to elect representatives in whom they have confidence. This is an additional reason for non interference with the

impugned judgment and order of the Co-operative Tribunal.

43. For all the aforesaid reasons this petition is dismissed.
Rule stands discharged. There shall be no order as to costs.

M. S. Sonak, J.

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