

Meena

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.983 OF 2017

1. Premanand Vasu Chawdikar,
Son of Vasu Chawdikar,
aged 63 years, Indian National,
Occupation business, residing
at Chawdi, Pali,
Taluka Bicholim – Goa
2. Umesh Balkrishna Shirodkar,
Son of Balkrishna Shirodkar,
aged 59 years, Indian National,
resident of House No.65, Shirodkar
Sadan, Vithalwadi Road, Ansabhat,
Mapusa, Bardez- Goa.

... Petitioners.

V/s.

1. The Registrar of Co-operative Societies,
Government of Goa,
having office at 'Sahakar
Sankul, Patto Plaza,
Panaji – Goa.
2. State of Goa, through its
Chief Secretary, having
office at Secretariat,
Porvorim, Bardez- Goa.
3. The Goa State Cooperative
Bank Limited, through its
Managing Director, having

Office at 'Sahakar Sankul',
Patto Plaza, Panaji – Goa.

4. Goa State Cooperative
Housing Finance & Federation
Limited, through its Chief
Executive Officer, having
Office at Gomes Building,
3rd Floor, Opposite Delmon Hotel,
Panjim, Goa.
5. Goa State Cooperative Union
Limited, through its Chief
Executive Officer, having
Office at Dayan Smruti Swami
Vivekanand Road, Panaji, Goa.
6. Goa State Cooperative Marketing
& Supply Federation Limited,
through its Managing Director,
having Office at Sahakar Bhavan,
Near Municipal Market, Panaji, Goa. ...Respondents

Mr. Devidas J. Pangam, Advocate for the Petitioners.

Mr. Deep Shirodkar, Additional Government Advocate for the
Respondent No.1 and 2.

***Coram : N.M. Jamdar &
Nutan D. Sardesai, JJ.***

Date : 28 November 2017.

ORAL JUDGMENT (Per N.M. Jamdar,J):

The learned Advocate for the Petitioners seeks leave to delete Respondent Nos. 3 to 6. At his request, the Respondent Nos.3 to 6 stand deleted from the array of the Respondents.

2. Rule. Rule returnable forthwith. Respondent Nos.1 and 2 waives service. Taken up for disposal.

3. The Petitioners have challenged the orders passed by Respondent No.1 - The Registrar of Co-Operative Societies dated 4 September 2017 and 6 September 2017. By these orders, the Registrar has declared that both the petitioners cease to be on the Board of Directors in respect of the Co-Operative Societies specified in the orders.

4. The petitioner no.1 received a notice from the Respondent No.1 - Registrar dated 22 June 2017 stating that the Petitioner No.1 was holding the post of Board of Directors of Federal institutions namely The Goa State Coop. Bank Ltd., Sahakar Sankul, Patto-Panaji Goa; The Goa State Coop. Union Ltd., Panaji Goa; and The Goa State Coop. Marketing Supply and Federation Ltd, Panaji, Goa. The Petitioner No.2 also received an identical notice that the

Petitioner No.2 was holding the post of Board of Director for two federal institutions namely The Goa State Coop Housing Finance & Federation Ltd., Panaji Goa and The Goa State Coop Bank Ltd, Panaji Goa. In these notices, the Respondent No.1-Registrar referring to Section 59 (6) of the Goa Coop. Societies Act, 2001 stated that both the petitioners, being on the Board of Directors for more than one Apex or Federal Society, have to take a decision on which society they want to continue, since as per this provision, they cannot continue on the Board of Directors for more than one Apex or Federal Society. The Petitioners replied to the notices and sought personal hearing. Respondent No.1- The Registrar, proceeding on the fact that the Petitioners did not opt for any particular society, considered the conduct of the petitioners in breach of Section 59(6) and by impugned order proceeded to declare that the Petitioners ceased to be on the Board of Director for all the societies specified in the notice. Being aggrieved by this actions, the present Petition is filed.

5. Mr. Pangam, the learned Advocate for the Petitioners initially contended that the classification of the Societies made by the Respondent no.1-Registrar is incorrect and if the personal hearing was given in this matter, the Petitioners could have been explained it to the Respondent No.1- Registrar. Thereafter, the learned Counsel

for the Petitioners, upon taking instructions, from the Petitioner Nos.1 and 2 who are present in the Court submitted that the Petitioner are not pursuing the challenge further on merits and will elect which of the society specified in the Notice they will choose to continue as a Director and will not continue on the directorship of other societies mentioned in the Notice.

As far as the petitioner no1 is concerned, the statement is made that the Petitioner no.1 will continue to be on the Board of Director of the *Goa State Coop. Marketing Supply and Federation Ltd, Panaji, Goa* and not on *The Goa State Coop. Bank Ltd., Sahakar Sankul, Patto- Panaji Goa* and *The Goa State Coop. Union Ltd., Panaji Goa*. As regard the Petitioner No.2, statement is made that the Petitioner will continue on the Board of Director of *The Goa State Coop Housing Finance & Federation Ltd., Panaji Goa* and not on *The Goa State Coop Bank Ltd, Panaji Goa*.

6. Having heard the learned counsel for the parties, it appears that the Respondent No.1 proceeded to pass the impugned order since a reply on merit was not given by the Petitioners and the Petitioners did not elect as to which society they wanted to continue. As a result, the Respondent No.1 proceeded to remove the Petitioners from the Board of Directors of all societies. In our opinion, a request for

personal hearing, in the facts of the present case, was not entirely unjustified. Since, the Petitioners have chosen not to contest the matter on merit and have only sought a chance to make a choice, it will be appropriate that the impugned orders are modified and the Petitioners are permitted to continue on the Board of Director of the Society they have chosen.

7. Accordingly, the Writ Petition is disposed of by modifying the impugned order passed in respect of Petitioner No.1 on 4 September

Correction carried out
as per Order dated
20/12/2017 in MCA
No.989 of 2017.

Goa State Co-Operative Marketing and Supply Federation Ltd.
2017 by deleting the reference to ~~*Goa State Coop. Housing Finance*~~
~~*& Federation Ltd., Panaji Goa*~~ in the operative portion of the order.

The impugned order dated 6 September 2017 passed in respect of Petitioner No.2 also stands modified and the reference to *Goa State Coop. Housing Finance & Federation Ltd., Panaji Goa* in the operative portion of the order stands deleted. As a consequence, the Petitioners will continue to be on the Board of Director of the above Societies they have chosen, if they have been removed from the Board of Director only on account of the impugned order.

8. The Rule is made absolute in the above terms. No order as to costs.

Nutan D. Sardesai, J.

N.M. Jamdar, J.