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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8844/2016**

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Reserved on: 15th May, 2017

Pronounced on: 21st August, 2017

SUSHIL MUHNOT

..... Petitioner

Through: Mr.Bishwajit Bhattacharyya, Sr.
Advocate with Mr.Chandrachur Bhattacharyya,
Advocate

versus

UNION OF INDIA & ANR.

..... Respondent

Through: Ms.Shivalakshmi, CGSC with Mr.Sriram
Krishna and Mr.Ruchir Ranjan, Advocate for
respondent no.1

Mr.V.K. Gupta, Advocate for respondent no.2

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE PRATHIBA M. SINGH

SANJIV KHANNA, J.

Sushil Muhnot, has filed the present writ petition for quashing the letter dated 26th September, 2016 issued by the Government of India, Ministry of Finance, removing him from the post of Chairman & Managing Director of the Bank of Maharashtra with immediate effect in exercise of power conferred under sub-clause 4 of Clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970.

2. The petitioner had also challenged the constitutional validity of sub-clause 4 of Clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970 ('scheme' for short), being arbitrary and *ultra vires* to Article 14 of the Constitution, but has not pressed this challenge, as recorded in our order dated 15th May, 2017.

3. The petitioner was appointed as Chairman-cum-Managing Director of the Bank of Maharashtra ('bank' for short) on 9th November, 2013. On the basis of some complaints regarding occupation of two rent free official accommodations and exorbitant expenditure on renovation, a letter /notice dated 7th January, 2016 was written to the petitioner seeking comments. The petitioner submitted his comments vide communication dated 22nd January, 2016.

4. Not satisfied, the respondents – Union of India served a show cause notice dated 7th March, 2016 stating that having regard to the serious nature of the case, the petitioner should show cause, within ten (10) days, as to why action of removal from service should not be taken against him under sub-clause 4 of Clause 8 of the Scheme. Memorandum of irregularity was enclosed. The petitioner responded to this notice, denying the allegation vide reply dated 2nd April, 2016. As noticed above, the service of the petitioner was terminated as he was removed vide impugned order dated 26th September, 2016, which has been challenged in the present writ petition.

5. The sole and the only contention raised before us relates to the procedure prescribed under sub-clause 4 of Clause 8 of the Scheme and its alleged violation. In order to understand the contention and decide the same we would first refer to the relevant portion of sub-clause 4 of Clause 8 of the Scheme, which reads as under:

"8. Term of office and remuneration of a whole-time Director including Managing Director – (1) A whole-time Director including the Managing Director shall devote his whole-time to the affairs of the Nationalized Bank and shall hold office for such terms not exceeding five years as the Central Government may, after consultation with the Reserve Bank, specify and shall be eligible for re-appointment.

(1-A) Notwithstanding anything contained in sub-clause (1), the Central Government shall have the right to terminate the term of office of a whole-time Director, including the Managing Director, at any time before the expiry of the term specified under that sub-clause by giving to him a notice of not less than three months, in writing or three months salary and allowances in lieu of notice; and the whole-time Director, including the Managing Director, shall also have the right to relinquish his office at any time before the expiry of the term specified under that sub-clause by giving to the Central Government notice of not less than three months in writing.

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(4) The Central Government may, if it is satisfied that it is expedient in the interests of the nationalized bank so to do, remove a whole time Director, including the Managing Director, from office:

Provided that no such removal shall be made except after -

- (a) consultation with the Board, and
- (b) giving a reasonable opportunity to the whole-time Director including the Managing Director of showing cause against the proposed action."

6. Clause (1) states that the whole-time Director, including Managing Director, shall hold office for the term not exceeding five years, as the Central Government may after consultation with the Reserve Bank shall

specify and he/she is also eligible for re-employment. Under Clause (1-A) the Central Government has a right to terminate the term of office of a whole-time Director, including Managing Director, at any time before the expiry of the term specified by giving him notice of not less than three months in writing or three months salary or allowance in lieu of notice. Similarly, right has been given to a whole-time Director or Managing Director to relinquish the office by giving notice of not less than three months in writing. We have referred to the aforesaid clause, as it indicates and shows the nature and character of appointment.

7. Under Sub-Clause 4, the Central Government can remove a whole-time Director including Managing Director, if it is satisfied that it is expedient in the interest of the bank. As per the proviso in clause (b) this power with the Central Government requires reasonable opportunity to show cause against the proposed action to the whole-time Director including Managing Director. This condition in the proviso has been satisfied as show cause notice was issued pointing out the proposed action and seeking a reply.

8. The proviso in clause (a) states that removal shall not be made except after consultation with the Board. The contention of the petitioner is that there was no 'consultation' with the Board, as required by clause (a) to the proviso and therefore there was a violation of sub-Clause 4 of Clause 8.

9. To appreciate the contention, we would notice the relevant facts. It is accepted that the Union of India had written a letter dated 22nd April, 2016 to the Board of the Bank i.e. the Bank of Maharashtra, referring to the condition laid down in clause 8 (4) of the Scheme. This letter refers to the complaint/issue forwarded to the Board for consideration. It was requested that the entire matter be placed before the Board at the earliest while ensuring

that when the Board was convened and discussed the matter, the petitioner does not participate. After this letter, the bank had responded vide letters dated 13th May, 2016 and 24th May, 2016.

10. In the Board of Directors meeting held on 4th June, 2016, the issue was considered. The Chairman and Managing Director, i.e. the petitioner, did not participate. In this meeting based upon the letter received from the Government of India, documents were presented before the Board. Detailed deliberations took place on the agenda and thereafter point-wise observations, findings, and comments were recorded by the Board on the Government queries/references. For the sake of convenience and completeness, the same is reproduced below:

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Government Query / Reference	<u>Board Comments</u>
1. GOI letter dated 22 nd April, 2016 received from Department of Financial Services	
(a) Para 3(i) Shri Sushil Muhnot occupied two rent free official residences from May, 2014 to May, 2015 in contravention of his entitlement of one rent free accommodation.	As per documents pursued, including a “Note to Purchase Committee” headed by General Manager at Mumbai Zonal Office, dated December 31, 2013, the bank had decided to convert the Fourth Floor of Gadkari Chowk premises at Dadar, Mumbai, to CMD’s residence. The CMD in his letter dated January 22, 2016 to DFS, has also stated that his family shifted to the said

	premises in May, 2014. As per bank's internal document dated June 5, 2015, the Gadkari Chowk premises was allotted to CMD as residence and Mahbank House Pune was made Guest House. As per other documents on record, the Mahabank House was the residence of successive CMDs since its purchase till being converted as a Guest House. The CMD has since authorized the Bank in October, 2015 for deduction of Rs.500 per month from April 2014 for the use of Guest House at Mumbai and Pune. The bank documents also state that the Gadkari Chowk, (4th floor) House premises was being used as a Guest House even as late as in March, 2015. The actual date of conversion of the use of either premises is not ascertainable with certainty as different documents are conflicting.
(b) Para 3 (ii) Conversion of guest house into official residence of the CMD and vice versa was not done with the approval of Competent Authority which	As per item no.5 of Terms and Conditions of Appointment of Whole Time Directors of Public Sector Banks, "The type of accommodation, its

was the Board.

purchase price / rent is to be approved by the Board of Directors of the Bank.”

Different views have been expressed, in this context, as to whether conversion of guest house into CMD residence and vice versa requires Board approval. Some members felt that there is no such policy and as such the approval given by GM in charge of Corporate Services is in order. In this view, for reutilization of existing premises from one use to another, there is no need for Board approval, as per prevalent practice.

In another view, as the Terms and Conditions of Appointment of Whole Time Directors requires that “type of accommodation” requires Board approval, and as type of accommodation also refers to location, size, flat / bungalow, etc., the Board’s approval should have been taken for not only converting the Guest House into CMD bungalow and vice versa, but also for shifting the CMD residence to Mumbai. It was also felt that it

	is not unusual not to have a policy for converting use of premises, and that in the absence of an explicit policy, the bank should have put up the matter to the Board.
(c) Para 3 (iii) During 2014, a sum of Rs.65,70,292/- was spent on renovation of his official residence at Gadkari Chowk, Mumbai and Rs.41.62 Lacs on renovation of Mahabank House, Pune. These were very high expenditures.	The expenditure incurred for renovation of Gadkari Chowk premises was Rs.65.70 lakh in the financial year 2014-15. The expenses incurred for renovation of Mahabank House, Pune, was Rs.41.62 lakh in the year 2014. As per detailed information submitted by the bank, the expenditure incurred for renovation of CMD's residence at the Gadkari Chowk premises was only Rs.38.70 lack out of the total Rs.65.70 lakh, the remaining amount having been spent on the common area outside the building and for the rest of the building.
(d) Para 3 (iv) The Board's agreement or otherwise with all the facts and conditions in the letters dated 07.03.2016 and 02.04.2016 referred to in para 2 of this reference.	Please see below for detailed para-wise comments.
(e) Para 3 (v) Any other issue relevant to	The bank has submitted copy of the minutes of a Board

the case.	meeting held in the year 1990 regarding formation of a committee to hold negotiations for purchase of a residential quarter for the CMD of the bank in Mumbai. However, it is not known why the matter was not pursued further.
2. Department of Financial Services Memorandum dated 07.03.2016	
(a) The Central Government vide letter of even no. dated 07.01.2016 sought comments of Shri Sushil Muhnot, CMD, BoM on the occupation of two residences by him, one in Mumbai and the other in Pune in contravention of the Terms and Conditions of Appointment of Whole Time Directors of Public Sector Banks.	No comment required
(b) The reply given by Shri Sushil Muhnot vide letter No.AX1/CMD /23/2015-16 was examined. After examination; this appears to be a case of CMD having occupied two official residences from May, 2014 to May, 2015 and huge amounts spent on renovation of the residence in Mumbai.	Please see comments at 1(a) and 1(c).
(c) Having regard to the serious nature of this case, it is proposed to take action against Shri Sushil Muhnot under Rule 8(4) of The Nationalized Banks (Management and Miscellaneous	No comments required.

Provisions) Scheme 1970/1980. Shri Sushil Muhnot is hereby given an opportunity to show cause within 10 days of receipt of this memorandum as to why the proposed action of removal from service under Rule 8(4) should not be taken against him.	
3. CMD Letter dated April 2, 2016 to Department of Financial Services	
(a) I wish to thank the Government for considering extension of time to reply, as March being the year end, is a crucial period for profitability and balance sheet of the Bank. Incidentally, our profitability has been relatively better than several Banks in the last nine months, despite the RBI mandated AQR provisioning.	No comments required.
(b) Historically, the Bank has had a Corporate Office at Mumbai to cater to the substantial Mid and Large Corporate portfolios, comprising over 55% of the Bank's total advances, apart from IBA Management Committee and its SME related meetings (being member and now Honorary, Secretary), RBI meetings, SLBC and other State Government meetings (being Lead Bank of Maharashtra), IBPS and NIBM meetings (as Committee/ governing board member), product launches, seminars and conferences etc. This normally	The Board has not come across any evidence to the contrary.

involves Chairman's presence in Mumbai for about 6-7 working days in a month.	
(c) In view of this need for regular stay at Mumbai, the Bank's earlier CMD, having a residence in Pune had a full flat as dedicated guest house in Mumbai. In my case the residence and guest house location were proposed to be interchanged as I wanted to be transparent with regard to my family staying in Mumbai.	Please see comments to item Nos.1(a) and (b) above.
(d) This arrangement has saved the Bank the cost of staying in a Star Hotel at Mumbai, where a lot of the Bank's business is done. Further, I have never charged any halting allowances for my stay at Mumbai since joining the Bank.	No comment.
(e) The same situation of having a residence and also having a CMD guest house at Mumbai exists for all Banks like Allahabad Bank, Corporation Bank, IOB, PNB etc. as they do not have their Head Office in Mumbai, the financial Capital. Our Bank is no exception to this.	No comment.
(f) As regards occupation of two residences for the period May 2014 to May, 2015, I wish to submit that the Bank, historically, did not have any policy to formally allocate residence / convert residence to guest house or vice	Please see comments to 1(a) and (b) above.

versa and the same was accomplished through verbal instructions. In case, verbal instructions are acceptable then the respective conversion of Mumbai and Pune properties as submitted in my earlier letter of January 22, 2016 may be accepted of kind consideration.				
(g) However, there is a genuine feeling that verbal instructions for converting Mumbai guest House to residence and similarly converting Pune residence to Guest House may not be treated as valid in the banking set up.				No comment.
(h) Therefore, a formal allotment order was issued on June 5, 2015 (copy attached) covering all WTDs starting that “Following allotment of Residential quarters/ Guest House is made for which the details are as under”				No comment.
Sr. No.	Particulars	Whether on Rent or owned by Bank	Proposed	
1	Mahaank House, Prabhat Road, Pune-4	Owned by Bank	Guest House for the Directors of the Bank as well as for the	

			visiting guests	
2	Saptashringi Bungalow, Pune	Owned by Bank	Residence for Executive Director Shri Gupta.	
3	Flat No. 201, Shreyas August, Bhosale Nagar, Pune	On Rent	Residence for Executive Director Shri Athmaram	
4	Gadkari Chowk, Shivaji Park, Dadar, Mumbai	Owned by Bank	Residence of Hon'ble CMD	
(i) I, therefore, accept the government comment that the Pune house was officially converted to guest house vide Bank's allotment letter of June 5, 2016 as validated by memorandum No.8/5/2015 vig. Dated March 7, 2016				No comment.
(j) However, in the very same allotment letter of June 5, 2016 mentiond above the Mumbai Guest House was officially converted to Chairman's residence. I appeal to the government that where one part of the allotment letter pertaining to Pune house conversion to Guest House at				Please refer comments at 1(a) above.

serial no.1 is accepted, the other part at serial no.4 relating to the conversion of Mumbai guest house to residence, done in the same letter, be also accepted.	
(k) Since, the Bank officially converted (a) Pune erstwhile CMD residence to Guest House and simultaneously (b) Mumbai Guest House to CMD residence vide the same office order dated June 5, 2016, I did not occupy two residences, at any time, as one was guest house and the other a residence.	Please refer comments at 1(a) above.
(l) As regards expenditure incurred, the Gadkari Chowk, Dadar a dilapidated property of Bank, acquired decades back, comprising of 5 floors (Ground + 4 floors) and includes a Branch, a floor of old tenants and balance for Bank's guest house. It may be seen from the total expenditure of Rs.38.70 lakhs incurred on 4 th Floor Gadkari Chowk (as per details provided in Annexure) the expense on repairs and renovation (electrical and civil) itself was Rs.25.50 lakhs while the creation of kitchen (as the same was not there) costed of Rs.7.25 lakhs. This expenditure has helped to improve the life and upkeep of the Bank's property.	Please refer comments at 1(c) above.
(m) I wish to respectfully submit that both the conversions i.e. (a) Mahabank House, Pune from residence to Guest	Please refer comments at 1(a) above.

House and (b) Gadkari Chowk (4 th floor) from Guest House to Residence happened on the same date through the same official order of June 5, 2016, I did not occupy two residences at any time.	
(n) As regards expenditure incurred at 4 th Floor, Gadkari Chowk, Dadar the same was mainly towards civil & electrical repairs & renovation and creation of kitchen which has helped improve the life and upkeep of the old property.	Please refer comments at 1(c) above.

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11. It is noticed from the aforesaid minutes that the Government of India's letter dated 22nd April, 2016 on different issues were considered separately and Board had given their comments on different aspects. With regard to paragraph (a) of the Memorandum dated 7th March, 2016 issued by the Department of Financial Services, no comments were offered. However, with regard to paragraph (b) reference was made to the comments made in respect of paragraphs 1(a) and 1(c) of the Government of India letter dated 22nd April, 2016. On the question of serious nature of the case and proposed action mentioned in letter dated 7th March, 2016, it was observed that 'no comments' were required.

12. Counsel for the petitioner has also drawn specific reference to the aforesaid minutes as also the Board's comments on paragraph 3(iv) of the Government of India letter dated 22nd April, 2016. In fact, it was pointed out that the comments were to be found in the paragraphs below.

13. In view of the comments given by the Board it is submitted by the petitioner that there was a failure of 'consultation' and thus the order of removal dated 26th September, 2016 violates sub-clause 4 of Clause 8 of the Scheme. The contention was that the Board's failure to comment or 'no comments' negates the consultation requirement. Our attention was drawn to the Judgment of the Supreme Court in *State of Gujarat and Anr. Vs. Gujarat Revenue Tribunal Bar Association and Another* (2012) 10 SCC 353, in which, while considering the expression 'consultation', the Supreme Court had observed as under:

“34. The object of consultation is to render the consultation meaningful to serve the intended purpose. It requires the meeting of minds between the parties involved in the process of consultation on the basis of material facts and points to evolve a correct or at least satisfactory solution. If the power can be exercised only after consultation, consultation must be conscious, effective, meaningful and purposeful. It means that the party must disclose all the facts to other party for due deliberation. The consultee must express his opinion after full consideration of the matter upon the relevant facts and quintessence. (Vide *Union of India v. Sankalchand Himatlal Sheth* [(1977) 4 SCC 193 : 1977 SCC (L&S) 435 : AIR 1977 SC 2328] , *Subhash Sharma v. Union of India* [1991 Supp (1) SCC 574 : AIR 1991 SC 631] , *Justice K.P. Mohapatra v. Sri Ram Chandra Nayak* [(2002) 8 SCC 1] , *Gauhati High Court v. Kuladhar Phukan* [(2002) 4 SCC 524 : 2002 SCC (L&S) 555] , *High Court of Judicature of Rajasthan v. P.P. Singh* [(2003) 4 SCC 239 : 2003 SCC (L&S) 424 : AIR 2003 SC 1029] , *Union of India v. Kali Dass Batish* [(2006) 1 SCC 779 : 2006 SCC (L&S) 225] and *Andhra Bank v. Andhra Bank Officers* [(2008) 7 SCC 203: AIR 2008 SC 2936])”

14. Reliance was placed upon Constitution Bench decision in *Union of India Vs. Sankalchand Himatlal Sethi and Anr.* (1977) 4 SCC 193 in which it has been observed:

“38. In *Words and Phrases* (Permanent Edn., 1960, Vol. 9, p. 3) to “consult” is defined as “to discuss something together, to deliberate”. *Corpus Juris Secimdm* (Vol. 16-A, Edn. 1956, p. 1242) also says that the word “consult” is frequently defined as meaning “to discuss something together, or to deliberate”. Quoting *Rollo v. Minister of town and Country Planning* [(1947) 2 All ER 946] and *Fletcher v. Minister of town and Country Planning* [(1943) 1 All ER 13 CA] Stroud's *Judicial Dictionary* (Vol. 1, Third Edn., 1952, p. 596) says in the context of the expression “consultation with any local authorities” that “consultation means that, on the one side, the Minister must supply sufficient information to the local authority to enable them to tender advice, and, on the other hand, a sufficient opportunity must be given to the local authority to tender advice”. Thus, deliberation is the quintessence of consultation. That implies that each individual case must be considered separately on the basis of its own facts. Policy transfers on a wholesale basis which leave no scope for considering the facts of each particular case and which are influenced by one-sided governmental considerations are outside the contemplation of our Constitution.”

15. It is obvious that the respondents have contested the said submission and submitted that in this case consultation had taken place and there was no procedural error in compliance with the requirements of sub-clause (4) of Clause 8. The consultation was made in compliance with clause (b) to the proviso.

16. The word ‘consultation’ can have diverse and different meaning and has to be interpreted when used in the Constitution, statutes, etc. in accordance with the legislative intent. G.P. Singh in the Principles of

Statutory Interpretation (13th Edition 2012 at page 3) has observed that words in any language are not scientific symbols having any precise or definite meaning, and language is but an imperfect medium to convey one's thought. It is impossible even for the most imaginative legislature to forestall exhaustive situations and circumstances that may emerge after enactment, where the application is gone for. Words and phrase are symbols that stimulate mental references to referents. Further, words of any language are capable of referring to different referents in different context and times. The words and phrases, therefore, take colour and character from the context and the times and speak differently in different context and times. [See ***Municipal Corporation, Delhi Vs. Mohd. Yasin***, (1983) 3 SCC 229].

17. In the present context, we would observe that the word 'consultation' in sub-clause 4 of Clause 8 requires the Government of India to take opinion and comments of the Board in respect of the proposed action. In this way, the Central Government has the benefit of the opinion and comments of the Board before it makes the final call whether or not to take the proposed action. Comments of the Board would be relevant and important. It would help and assist the Central Government make the decision. Contextually, therefore, the word 'consultation' in this regard would mean furnishing information and details to the Board to enable them to give their opinion or comments.

18. Supreme Court in ***Andhra Bank Vs. Andhra Bank Officers & Another*** (2008) 7 SCC 203, has observed that the word 'consultation' can have a different connotation in a different context, but when one authority is required to consult the other, such consultation must be meaningful, and it must mean conscious and effective consultation.

19. In *Indian Administrative Service (SCS) Association Vs. Union of India* 1993 (Suppl.1) SCC 730 while referring to the term 'consultation' between the Central Government with the State Government for making amendments to the service rules it was held:

“26. The result of the above discussion leads to the following conclusions:

(1) Consultation is a process which requires meeting of minds between the parties involved in the process of consultation on the material facts and points involved to evolve a correct or at least satisfactory solution. There should be meeting of minds between the proposer and the persons to be consulted on the subject of consultation. There must be definite facts which constitute the foundation and source for final decision. The object of the consultation is to render consultation meaningful to serve the intended purpose. Prior consultation in that behalf is mandatory.

(2) When the offending action affects fundamental rights or to effectuate built-in insulation, as fair procedure, consultation is mandatory and non-consultation renders the action ultra vires or invalid or void.

(3) When the opinion or advice binds the proposer, consultation is mandatory and its infraction renders the action or order illegal.

(4) When the opinion or advice or view does not bind the person or authority, any action or decision taken contrary to the advice is not illegal, nor becomes void.

(5) When the object of the consultation is only to apprise of the proposed action and when the opinion or advice is not binding on the authorities or person and is not bound to be accepted, the prior consultation is only directory. The authority proposing to take action should make known the general scheme or outlines of the actions proposed to be taken be put to notice of the authority or the persons to be consulted; have the views or objections, take them into consideration, and thereafter, the authority or person would be entitled or has/have authority to pass appropriate orders or

take decision thereon. In such circumstances it amounts to an action “after consultation”.

(6) No hard and fast rule could be laid, no useful purpose would be served by formulating words or definitions nor would it be appropriate to lay down the manner in which consultation must take place. It is for the Court to determine in each case in the light of its facts and circumstances whether the action is “after consultation”; “was in fact consulted” or was it a “sufficient consultation”.

(7) Where any action is legislative in character, the consultation envisages like one under Section 3(1) of the Act, that the Central Government is to intimate to the State Governments concerned of the proposed action in general outlines and on receiving the objections or suggestions, the Central Government or Legislature is free to evolve its policy decision, make appropriate legislation with necessary additions or modification or omit the proposed one in draft bill or rules. The revised draft bill or rules, amendments or additions in the altered or modified form need not again be communicated to all the concerned State Governments nor have prior fresh consultation. Rules or Regulations being legislative in character, would tacitly receive the approval of the State Governments through the people's representatives when laid on the floor of each House of Parliament. The Act or the Rule made at the final shape is not rendered void or ultra vires or invalid for non-consultation.

27. The proposal for amending the New Seniority Rules in the draft was only for inviting discussion and suggestions on the scope and ambit of the proposed law and the effect of the operation of the First Amendment Rules. Keeping the operational effect in view, the proposed amendment could be modified or deleted or altered. The Central Government is not bound to accept all or every proposal or counter-proposal. Consultation with the Ministry of Law would be sufficient. Thereby the Central Government is not precluded to revise the draft rules in the light of the consultation and advice. The Central Government had prior consultation with the State Governments concerned and the Law Department.”

20. In the background of the present case when we refer to the aforesaid minutes of the Board of Directors, it cannot be said that 'consultation' with the Board was absent or the procedure as mandated by the proviso clause (b) was violated. The Board had given its comments, in whatever manner it had felt necessary. It has not repeated the comments and at certain places observed that no comments were required. This is not a case wherein the consultative process was not initiated or that the matter was not put to the Board for its opinion and comments. The Board had considered different issues and had tendered its opinion. Remarks such as 'No comment' are also comments and could form part of the consultative process, depending on the facts of each case. Clause 8 sub-clause 4 empowers and confers the power on the Central Government to remove a whole time Director including the Managing Director. This power is not conferred on the Board. The primacy of the Central Government, keeping in view the nature of the post, is apparent and obvious. Consultation clause in the proviso ensures that views of the Board should be ascertained and examined before the opinion and decision of the Central Government is taken. No particular format or method of consultation is prescribed. We do not think, in the context of the present case, it can be urged and accepted that there was failure to consult or the decision taken by the Government of India under sub-clause 4 of Clause 8 is vitiated and bad for want of consultation.

21. We wish to also record and state that this judgment only records and deals with the contentions raised and argued by the petitioner. This judgment does not deal with any other issue, not raised and argued.

22. In view of the aforesaid discussion, we do not find any merit in the present writ petition and the same is accordingly, dismissed. There would be no order as to costs.

(SANJIV KHANNA)
JUDGE

(PRATHIBA M. SINGH)
JUDGE

AUGUST 21st, 2017
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