

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 196 OF 2019

1. Neville Colaso, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.11/F-4, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

2. Neville Chico, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.4/C/UG-1, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

3. Marcelyna Fernandes, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.5A/T1, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

4. Sharika Pereira, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.8-B/F-2, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

5. Russel Barreto, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.11/FO-1, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

6. Ien Fernandes, Member of

Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.5b/s-2, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

7. Mrs. Anna Maria Fernandes, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.8B/F-1, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

8. Mrs. Sylvia Dos Santos, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.8A/S3, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

9. Mrs. Minaliz R. Chico, Member of
Models Legacy Co-operative Housing
Maintenance Society Limited, Owner of
Flat No.5A/T3, Model Legacy,
Bhor Bhat, Taleigao, Tiswadi, Goa.

..... Petitioners.

Versus

1. Irudayam Savari Muthu,
present Director, Member of Models
Legacy Co-operative Housing Maintenance
Society Limited,
Owner of Flat No.12/FO-1,
Model Legacy, Bhor Bhat,
Taleigao, Tiswadi, Goa.

2. Joymalla Sinha, Present Director,
Member of Models
Legacy Co-operative Housing Maintenance

Society Limited,
Owner of Flat No.10A/UG-1,
Model Legacy, Bhor Bhat,
Taleigao, Tiswadi, Goa.

3. Anil Vasant Pednekar,
Present Director
Member of Models
Legacy Co-operative Housing Maintenance
Society Limited,
Owner of Flat No.5A/UG-3,
Model Legacy, Bhor Bhat,
Taleigao, Tiswadi, Goa.

4. Vinit Shashikant Bandiwdekar,
Present Director
Member of Models
Legacy Co-operative Housing Maintenance
Society Limited,
Owner of Flat No.8B-FO2,
Model Legacy, Bhor Bhat,
Taleigao, Tiswadi, Goa.

5. Vittorio Velho,
Present Director
Member of Models
Legacy Co-operative Housing Maintenance
Society Limited,
Owner of Flat No.3/FO3,
Model Legacy, Bhor Bhat,
Taleigao, Tiswadi, Goa.

6. The Chief Secretary,
Government of Goa,
Secretariat, Porvorim, Goa.

7. The Assistant Registrar of Co-op.
Societies, Central Zone,
Sahakar Bhavan, 1st Floor,
Opp. Municipal Market,
Panaji, 403 001.

..... Respondents.

Mr. Rohit Bras de Sa, with Ms. V.V. Shet, Advocates for the
Petitioners.

Mr. Pravin N. Faldessai, Additional Govt. Advocate for Respondents
No.6 & 7.

***Coram : S.C. Gupte &
Prithviraj K. Chavan, JJ.***

Date : 13th June, 2019.

ORAL JUDGMENT: (Per S.C. Gupte, J.)

1. Heard learned Counsel for the Petitioners and learned
Additional Govt. Advocate.
2. Rule. Taken up for hearing forthwith by consent of
learned Counsel.
3. This Petition challenges legality of a communication issued
by the Assistant Registrar of Co-operative Societies, Central Zone,
Panaji on a petition for disqualification of the Members of a Board
of a Cooperative Society under Section 61(c) of the Goa Co-operative
Societies Act, 2001 (the "Act"). The Petition also seeks directions to
the Registrar of Co-operative Societies, to forthwith register the

disqualification petition filed by the Petitioners under Section 61(c), read with Section 83 of the Act.

4. It is the Petitioners' case that Respondents No.1 to 5, who were members of the Board of Models Legacy Co-operative Housing Maintenance Society Limited (Society), a Co-operative Society registered under the Act, have not placed the accounts of the preceding co-operative year before the General Body at its general meeting. It is submitted that as a result of this default, the Respondents, as Directors of the Board, are deemed to have incurred disqualification for a period of 5 years from being chosen as Directors of the subject-society.

5. Section 61 of the Act contains a non-obstante provision of deemed disqualification. The Petitioners have raised a grievance before the Co-operative Authorities that the Respondents, as Members of the Board of their Society, have attracted this disqualification by reason of non-placement of accounts as alleged by them, under Clause (c) of Section 61 of the Act. Once such a Petition is presented before the Registrar of Co-operative Societies, he is duty bound to register the Petition and hear and decide it one way or the other. He cannot simply allow the Petition to remain on file, without even registering it. The impugned communication of 30th October, 2018 does not help the matters either. It is completely vague and has

no bearing on the request made by the Petitioner.

6. In the premises, Rule is made absolute and the Petition is disposed of, directing the Registrar of Co-operative Societies to forthwith register the Petitioners' application for deemed disqualification under Section 61(c), read with Section 83 of the Goa Co-operative Societies Act, 2001 and dispose of it in accordance with law.

Prithviraj K. Chavan, J.

S.C. Gupte, J.