

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 845 OF 2017

JAIWANT P. NAIK ... PETITIONER
Vs.
STATE OF GOA, THR. ITS CHIEF
SECRETARY & 12 ORS. ... RESPONDENTS

Mr Arjun Naik, Advocate for the Petitioner.

Mr Deep D. Shirodkar, Additional Government Advocate for
Respondent Nos. 1 and 2.

Mr Akhil Parrikar, Advocate for Respondent Nos. 3 to 15.

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

DATED: 26th APRIL 2023

ORAL ORDER:

1. Heard Mr Arjun Naik for the Petitioner, Mr Shirodkar learned Additional Government Advocate for respondent nos. 1 and 2 and Mr Akhil Parrikar for respondent nos. 3 to 15.

2. The Petitioner's basic grievance was that he was shown as having resigned from the chairmanship of respondent no. 15-Society, when in fact, he had never resigned as a Chairperson. As a result, the Petitioner filed several proceedings alleging several illegalities by respondent nos. 3 to 13 and sought action against respondent nos. 3 to 13.

3. On 07.03.2018, a co-ordinate Division Bench of this Court made the following order:

“Heard the learned counsel for the parties.

2. It was put to the learned Senior Advocate for the Petitioner and the learned counsel for the Respondents that as far as the personal grievance of the Petitioner is concerned, the Petitioner can be reinstated to the post of Chairman of the Society and on the same day, a meeting can be held wherein it can be ascertained whether the Petitioner enjoys the confidence of the members, and all the parties will withdraw the allegations with each other. We were of the opinion, this could have been a possible solution to the dispute. The learned counsel for the Respondent Nos. 3 to 15 accepted this suggestion.

3. The learned Senior Advocate for the Petitioner, on instructions, from the Petitioner who is present in the Court states that the Petitioner is keen to see that the alleged illegalities with the functioning of the Respondent-Society are brought to light and he is not interested in this solution. The learned counsel for the Respondent-Society states that there are no illegalities and it is the Petitioner who has created various difficulties for the Society.

4. Considering the fact that we have various other more urgent causes to attend to, we do not find it necessary that the matter needs to be immediately decided at the stage of admission itself.

5. Accordingly, Rule. The learned counsel for the Respondents waives service.

6. *Liberty to file additional affidavit, and a rejoinder.”*

4. As noticed above, the Petitioner did not accept the reinstatement offer and simultaneously faced a motion of no confidence. Accordingly, this Court issued Rule in the Petition.

5. The term of the Board of Directors of respondent no. 15-Society ended in 2020. Therefore, *Prima facie*, most of the reliefs in this Petition have been rendered infructuous. However, Mr Arjun Naik states that action must be taken against respondent nos. 3 to 13 because some have been re-elected to the Board of Directors of respondent no. 15-Society.

6. Now that the term of respondent no. 15-Society has already ended, we are not quite sure whether the Registrar of Co-operative Societies can look into the allegation of illegalities made against respondent nos. 3 to 13 by the Petitioner. Mr Arjun Naik submits that in case the illegalities are established, then it is possible that respondent nos. 3 to 13 might be disqualified from holding the position of Directors, even during further terms. But, again, there is no clarity on this issue since no specific provision was shown.

7. We, therefore, dispose of this Petition by giving liberty to the Petitioner to file a detailed complaint to the Registrar of Co-

operative Societies within a month from today. If such a complaint is filed, then the Registrar of Co-operative Societies will hear the Petitioner and the opponents and dispose of such a complaint on its own merits and per the law as expeditiously as possible. All contentions of all parties are expressly kept open.

8. The Registrar should consider whether such a complaint should be entertained given Mr Naik's contention that a disqualification from the term would constitute a bar from holding the Directorship to all such Directors, even in the next term. However, even this point is left open for the decision of the Registrar.

9. The Petition is disposed of in the above terms with no order for costs.

10. All concerned to act on the authenticated copy of this order.

VALMIKI SA MENEZES, J.

M. S. SONAK, J.