

Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.44 OF 2024

RAJKUMAR GADGE

Age 43, resident of

Mother Agnes Field View Co-op Hsg Sco. Ltd.,

Santerxtte Aldona

Bardez, Goa 403 508

... PETITIONER

Versus

1. STATE OF GOA

through its Chief Secretary,

having office at Secretariat,

Porvorim, Goa.

2. ASST. REGISTRAR COOP. SOCIETIES

North Zone, 1st Floor

Government Building

Complex Mapusa Goa

3. MAMLATDAR

Executive Magistrate

Mapusa – Bardez

Goa

4. CHAIRMAN

Mother Agnes Field View Co-op Hsg Sco. Ltd.,

Santerxtte Aldona

Bardez, Goa 403 508

5. POLICE INSPECTOR

Mapusa Police Station

Mapusa Bardez, Goa

... RESPONDENTS

Mr. Shivan Desai with Ms. Maria Viegas, Advocates for the Petitioner.

Ms. Sulekha Kamat, Additional Government Advocate for Respondent Nos. 1, 2, 3 and 5.

CORAM: BHARAT P. DESHPANDE, J.

DATED : 11th January, 2024

JUDGMENT

1. Heard Mr. Desai, learned Advocate appearing for the Petitioner and Ms. Kamat, learned Additional Government Advocate for the Respondent Nos. 1, 2, 3 and 5.

2. For the order which I propose to pass, there is no need to issue notice to Respondent No. 4 at this stage.

3. The Petitioner is challenging the Order dated 07.02.2023 passed by the Assistant Registrar Cooperative Society and addressed to the Mamlatdar, thereby directing the said Mamlatdar to take necessary action under Section 68A.(2) of the Goa Co-operative Societies Act, 2001 by authorising the Police Officers to seize the records/documents from the custody of the Petitioner and hand over it to the Chairman/Respondent No. 5.

4. Mr. Desai would submit that such Order was passed by flouting the Principles of Natural Justice as no opportunity was

given to the Petitioner by the concerned authority of being heard or even issuing show cause notice.

5. The learned Additional Government Advocate would submit that the concerned authority would hear the Petitioner and pass appropriate Orders.

6. Since the impugned order is passed without giving any opportunity to the Petitioner of showing cause or of being heard, the same requires to be quashed and set aside. Such order is not an administrative order but amounts to exercise of quasi-judicial powers. In such circumstances and without giving opportunity to the person who is going to be affected, passing of such Order would be against the Principles of Natural Justice.

7. Since the Order itself is against the Principles of Natural Justice, this Court has not gone into the merits and demerits of the other aspects. However, the petition could be allowed by directing the Assistant Registrar of Cooperative Societies to hear the Petitioner and only thereafter pass an Order. The Petitioner is ready and willing to attend the Office of Assistant Registrar of Cooperative Societies on 16.01.2024 at 11:00 am. The Assistant Registrar shall hear the Petitioner on that day.

8. Liberty is granted to file reply. The Assistant Registrar shall take decision within a period of 8 days thereafter.

9. In view of the above conclusions, the impugned order is hereby quashed and set aside. The Assistant Registrar of Cooperative Societies after giving opportunity as disclosed above shall pass fresh Orders and communicate it to the Petitioners.

10. Rule is made absolute in above terms.

BHARAT P. DESHPANDE, J.