



Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.779 OF 2024

1. Mr. Nigel Reynold Vaz,
47 years of age,
Son of Fredrick Vaz,
Resident of House no. 109,
Bairo Alto,
Near Ganga Tiles,
Assagao, Bardez, Goa - 403 507.

2. Mrs. Salina D'souza,
60 years of age,
Daughter of Derrick Acurcio D'souza,
R/o. Acron Nilama Valley,
Bldg (E), Flat No. UG-E/2,
Near Ashapura Saw Mills,
Alto-Porvorim, Salvador do Mundo,
North Goa, Goa - 403 101.

3. Mr. Cledwyn Gomes,
70 years of age,
Son of Denis Saul Gomes,
Resident of House no. 0826,
B. B. Borkar Road,
Vijaynagar, Alto-Porvorim,
Goa-403 521,
Petitioners nos. 1 to 3 represented herein
By their Constituted Attorney the Petitioner
No. 4 Mr. Raymond Pereira,
Constituted vide Specific POA
dated 15/07/2024 Executed before
Notary S. G. Narulkar and Registered
in his office under No. 1513/2024.

4. Mr. Raymond Pereira,
67 years of age,
Son of Placido Pereira,
Resident of House no. 24, Palmar Vaddo,
Near Dena Bank, Pomburpa,
North Goa, Goa. ...Petitioners

Versus

1. Assistant Registrar of Co-operative Societies,
Government of Goa,
North Zone, 1st floor,
Government Building Complex,
Mapusa, Goa.
Email-aresmapusa-ores.goa@nic.in
2. State of Goa,
Through Chief Secretary,
Secretariat, Porvorim Goa.
3. Maria Rosa Co-operative
Housing Society Ltd.,
Having its office at Naikwaddo,
Calangute, Bardez, Goa,
Represented herein by its Chairman,
Mr. Ramdas Palkar
Residing at B 101,
Maria Rosa Co-operative
Housing Society Ltd
Naikwaddo, Calangute, Bardez, Goa ...Respondents

Ms Annelise Fernandes, Advocate for the Petitioners.

Mr Manish Salkar, Government Advocate for the Respondent
Nos.1 and 2.

Mr Sagar Sarmalkar, Advocate for the Respondent No.3.

CORAM: DR. NEELA GOKHALE, J.

DATED: 21st APRIL 2026

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith.
2. With the consent of all the parties, the matter is taken up for final hearing.
3. The brief facts of the petition are as follows:-
 - 3.1. The Petitioners are the erstwhile Board of Directors of the Respondent No.3-Cooperative Housing Society. The Respondent No.1 is the Assistant Registrar of Co-operative Societies, and Respondent No.2 is the State of Goa.
 - 3.2. The Petitioners were the constituted Board of Directors of the Respondent No.3 -Society and held office as such during the term 2022-2027.
 - 3.3. Vide show cause notice dated 28th March, 2023, the Respondent No.1, in exercise of his powers under Section 61 of the Goa Cooperative Societies Act, 2001 ('the said Act') issued a show cause notice calling upon the Petitioners-Directors to answer as to why they should not be deemed to be disqualified for a period of six years and why an Administrator or a committee of Administrator

should not be appointed under the provisions of Section 67A of the said Act.

3.4. The Petitioners filed their reply before the Respondent No.1 dated 5th May, 2023. The Registrar, by its order dated 14th June, 2023, declared that all the Board of Directors, i.e. all the Petitioners, are disqualified for a period of six years and they shall not assume office of the Board of Directors of the Society as such. The reason was that these Petitioners had failed to convene and conduct the Annual General Meeting of the Society within a period of six months of the close of the Cooperative year as provided under Section 72(2) of the said Act. The Registrar also appointed one Mr Mark Mascarenhas as an Administrator of Respondent No. 3 Society. Aggrieved by the order passed by the Registrar dated 14th June, 2023, the Petitioners-Directors have filed the present petition for the relief as prayed for.

4. Ms A. Fernandes, learned counsel appearing for the Petitioners submitted that the Respondent No.1-Registrar has committed a manifest error in law in failing to appreciate that the provision of Section 61 of the said Act does not mandate the maximum period of disqualification to be six years and that a reading of the said provision would indicate that the Registrar must exercise discretion in imposing the period of ineligibility. She

further submits that the Directors were unable to convene the meeting of the Society since the COVID-19 pandemic was in force during that period. In these circumstances, she submits that the Petitioners have been put to great hardship and prejudice and on this ground itself, the said order needs to be interfered with. She thus prays that the petition be allowed.

5. Mr Sarmalkar, learned counsel appearing for the Respondent No.3 - Society and Mr Salkar, learned Government Advocate appearing for the Respondent Nos. 1 and 2, have not made a serious challenge to the prayer sought by the Petitioners. They fairly concede that during the period in which the Annual General Meeting was required to be convened, there was a Covid-19 Pandemic prevailing in the country and as such, the Petitioners-Directors were not at all at fault for not convening and conducting the Annual General Meeting of the Society. Admittedly, three years have elapsed since the Petitioners-Directors were disqualified.

6. Ms Fernandes has placed reliance on a decision of this Court in the matter of *Vinod Vellapan and others Vs Asst. Registrar of Co-operative Societies and Others* dated 26th March 2024, passed in Writ Petition No.221 of 2024.

7. I have heard the learned counsel for the respective parties and perused the record with their assistance.

8. Admittedly, during the period when the Annual General Meeting was required to be held by the Petitioners - Directors, there was a COVID-19 pandemic in the world, and as such the Petitioners - Directors could not be expected to convene and conduct the said meeting, which required the parties to gather at a particular place. In view of the same, the Registrar ought to have considered these mitigating circumstances and ought not to have disqualified the Petitioners – Directors for a maximum period of six years, as he has done by way of the impugned order. This Court in *Vinod Vellapan* (supra) at Paragraph 11 has observed as under:-

“11.....The language of Section 61 of the Co-operative Societies Act, uses the expression “shall incur disqualification not exceeding 6 years as may be decided by the Registrar”. This expression would categorically point out that the disqualification is not for 6 years but can be for any period from one day to six years, which is the maximum which can be imposed by the Registrar while exercising powers under Section 61 of the Co-operative Societies Act. Though Nagesh Mukund Shet Daivajna (supra) holds, and in my considered opinion rightly so, that the disqualification is automatic, considering the non-obstante clause by which the provision commences, however, it also necessary to note that at the same time, it confers a discretion upon the Registrar to impose a disqualification, the outer limit of which does not exceed 6 years. This would clearly indicate that the discretion to impose the quantum is with the Registrar and the quantum of

the disqualification can vary depending upon the reasons to be recorded by the Registrar.”

9. Moreover, the impugned order contains no reasoning from the Registrar as to why the Petitioners - Directors were disqualified for the maximum period of six years. It is clear that the Registrar has failed to record any reasonable finding or ground to justify the disproportionate period of disqualification imposed on the Petitioners-Directors in the impugned order. There is a serious infirmity in the Order.

10. In view of the above, I am inclined to allow the petition. The impugned order dated 14th June 2023, passed by the Respondent No.1, declaring the Petitioners as disqualified for a period of six years from being the Board of Directors of the Society, is quashed and set aside.

11. The petition is allowed. The rule is made absolute in the aforesaid terms.

DR. NEELA GOKHALE, J