2026:BHC-GOA:1289

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 414 OF 2026

The Goa Cricket Association, A Society registered under The Societies Registration Act, 1860 Having its registered office at Goa Cricket Academy Ground, Porvorim, Bardez Goa. Through its Honorary Secretary, Shri Tulshidas Shetye, age 52 years. … Petitioner

V e r s u s

1. The State of Goa, Through the Chief Secretary, Having office at Secretariat, Porvorim, Bardez Goa.

2. The District Registrar, North, Office of the District Registrar & Inspector General of Societies, Registration Department, Government of Goa, Government Quarters, D-15 & D-1, Altinho, Near Joggers Park, Panaji Goa.

3. Mr Mahesh Chavan,R/o Siddhayee, L-88, Housing Board Colony, Porvorim, Bardez Goa.

4. Mr Vipul Phadke, Flat No. G-1, Building No. D-1 Ashlona, Xelpem, Duler, Mapusa Goa.

...Respondents

5. Mr Shamba Dessai, 279, Bhikarwada, Canacona Goa.

Mr Nitin Sardessai, Senior Advocate *with Mr Abhijeet Kamat, Advocate for the Petitioner.*

Mr Devidas Pangam, Advocate General *with Mr Deep Shirodkar, Additional Government Advocate for Respondent Nos. 1 and 2.*

Mr Rohit Bras De Sa, Advocate *for Respondent No.3.*

Mr S. S. Kantak, Senior Advocate *with Mr Gaurang Kerkar, Advocate for Respondent No.4.*

Mr Kabir Sabnis, Advocate *for Respondent No.5.*

CORAM : DR. NEELA GOKHALE, J.

Reserved On : 30th JUNE 2026
Pronounced On : 6th JULY 2026

JUDGMENT

1. **Rule**. The Rule is made returnable forthwith. By consent of all the parties, the matter is taken up for final hearing.

2. By this petition, the Petitioner assails the Order dated 29th May 2026, passed by Respondent 2, the District Registrar, North, and Inspector General of Societies, Panaji, Goa, directing an inquiry by a panel of auditors into the affairs of the Petitioner-Society. The Petitioner also assails the communication dated 29th May 2026, issued by Respondent No. 2 to the Chairman of the Goa Branch of the

Institute of Chartered Accountants of India, requesting that a panel of three auditors be furnished pursuant to the impugned Order.

3. The facts of the case, in brief, are as follows:

3.1. The Petitioner is a Society registered under the Societies Registration Act, 1860 ('**the Act**'). It is a premier body governing cricket in Goa and claims affiliation to the Board of Control for Cricket in India (**BCCI**). Respondent No. 1 is the State of Goa, and Respondent No. 2 is the District Registrar & Inspector General of Societies. Respondent No. 3, a life member of the Petitioner, is the Complainant before Respondent No. 2. Respondent Nos. 4 and 5 are the former President and Vice President cum Secretary, respectively, of the Petitioner.

3.2. The Respondent No. 3 filed Writ Petition No. 80 of 2026 (F) before this Court, inter alia, seeking directions to the Respondent No. 2 to investigate the allegations made by him in a complaint filed by him with the Respondent No. 2 against the erstwhile officials of the Petitioner. The Respondent No. 3's grievance was that, despite innumerable complaints made by him to the Respondent No. 2 alleging misappropriation of funds by the Petitioner, no action was being taken by the Respondent No. 2. This Court, by its Order dated 03rd February 2026, upon hearing all the parties, directed that the Respondent No. 2 complete the investigation within 6 months from the date of receipt of a certified copy of the said Order. This Court also directed that the Respondent No. 2 shall look into all other similar complaints pending before him and, if necessary, club them together to expedite their disposal. Opportunity of hearing was directed to be given to all the affected parties, and the Respondent No. 3 was also permitted to raise all objections permissible in law.

3.3. Pursuant to this Order, Respondent No. 2 issued notices to all parties, including the Petitioner herein. The Petitioner was not a party to the complaints filed by Respondent No. 3. Accordingly, a notice dated 08th April 2026 in Complaint No. 26/2025 was issued to the Petitioner by Respondent No. 2, informing the Petitioner that it had been added as a party and that Respondent No. 2 proposed to conduct an inquiry under

Section 20A of the Act. The Petitioner filed its reply dated 27th April 2026, raising preliminary objections. One of the objections required Respondent No. 3 to disclose the source of the documents annexed to the complaints to verify their correctness. The Petitioner contended that several files were found missing from its office and that a complaint had already been made to the concerned police station regarding the theft of the files.

3.4. On 24th April 2026, the Petitioner received another notice dated 23rd April 2026, in Complaint No. 22/2026 dated 26th December 2025, directing it to show cause as to why an inquiry under Section 20A of the Act should not be conducted against it. The Petitioner filed its reply to the notice on 14th May 2026.

3.5. On 08th May 2026, Respondent No. 3–Complainant filed his rejoinder to the Petitioner's reply, and the Petitioner filed its sur-rejoinder dated 18th May 2026.

3.6. On 29th May 2026, Respondent No. 2 passed the common impugned Order, directing an inquiry into the affairs of the

Petitioner-Society by a panel of auditors, and also sent a communication dated 29th May 2026 to the Chairman of the Goa Branch of the Institute of Chartered Accountants of India, requesting the furnishing of a panel of three auditors pursuant to the said Order. These are the Orders impugned herein.

4. Mr Nitin Sardessai, Senior Advocate, appeared for the Petitioner. Mr Devidas Pangam, Advocate General, appeared for Respondent Nos. 1 and 2. Mr Rohit Bras De Sa, learned Counsel, appeared for Respondent No.3. Mr S. S. Kantak, Senior Advocate, appeared for Respondent No.4. Mr Kabir Sabnis, learned counsel, appeared for Respondent No.5.

5. <u>SUBMISSIONS ON BEHALF OF THE PETITIONER:</u>

5.1. Mr Sardessai's principal argument is that despite this Court's orders dated 03rd February 2026, which directed that an opportunity of hearing be given to all affected parties, Respondent No. 2 proceeded to hear arguments only on the preliminary objections raised by the Petitioner and Respondents Nos. 4 and 5, challenging the maintainability and entertainability of the complaints. According to him, the parties were specifically asked not to address the merits of the complaint.

5.2. It is submitted that the order dated 03rd February 2026 was passed by this Court on the statement of the learned Advocate General that the notices of the complaint had already been issued and that the matter was fixed before Respondent No. 2 on 27th February 2026. Since the Petitioner was not issued notice of the Writ Petition, they were unable to point out to the Court that several documents annexed to the Writ Petition were part of the missing files. The Petitioner thereafter learnt that the missing files were in the custody of the ex-treasurer. A police complaint was thus made against Daya Pagi, Mr Saish Naik, and Respondent No. 3 herein.

5.3. While directing an audit, the Respondent No. 2 completely ignored the Petitioner's request to direct the Respondent No. 3 to disclose the source of the documents annexed to the complaint.

5.4. Sardessai further submitted that the alleged mismanagement was said to have occurred during the term of the previous Managing Committee, and the present Committee could not be made liable for it.

5.5. The impugned order is passed solely on conjectures and surmises and does not disclose any application of mind. There is no subjective satisfaction of Respondent No. 2 recorded in the order.

5.6. Lastly, Mr Sardessai alleged that the impugned Order was passed in accordance with the directions of political masters to somehow take control of the Petitioner-Society after having lost the Managing Committee elections. Mr Sardessai thus prayed that the impugned Order be quashed and set aside. Mr Sardessai also complained that the impugned Order projected a tarnished image of the Petitioner, prompting the BCCI not to allot several matches to the Petitioner.

6. Mr S. S. Kantak supported the arguments of Mr Sardessai. He further submitted that the actions of Respondent No. 2 reeked of political vendetta and that the impugned Order was merely the first step towards eventually taking over the Petitioner-Society by invoking the amended Section 20AA of the Act and appointing an

Administrator. He submitted that the Order is not as innocuous as it is made out to be, and that Respondent No. 5 has serious apprehensions that the Order is a means to end the duly elected Managing Committee's regime and to grab control of the Petitioner-Society. Mr Kantak relied on the following decisions of the Supreme Court and this Court:

(i) Bhikubhai Vithlabhai Patel and Ors vs. State of Gujarat and Anr.[1]

(ii) Barium Chemicals Ltd. and anr. vs. Company Law Board and Ors.[2]

(iii) Kulswami Co-operative Credit Society Ltd. vs. State of Maharashtra and Ors.[3]

7. SUBMISSIONS ON BEHALF OF THE RESPONDENT NOS. 1 AND 2 :

7.1. At the outset, Mr Pangam stated that the impugned Order is an interim order directing an audit of the Petitioner's accounts to be conducted by independent auditors. The complaints made by Respondent No. 3 have not been finally decided, and no final orders under Section 20A of the Act have yet been passed by Respondent No. 2. The impugned Order neither affects any right

1 (2008) 4 SCC 144

2 1966 SCC OnLine SC 53

3 Writ Petition No. 2946 of 2025 decided on 25th September 2025 of the Petitioner nor causes any prejudice. Respondent No. 2 requires the audit report to appreciate the contours of the complaints before him and to form an opinion as contemplated under Section 20A of the Act.

7.2. Since Respondent No. 2 has not acted beyond his jurisdiction and the impugned Order does not cause any grave injustice to the Petitioner, the present petition is not maintainable. Article 227 of the Constitution of India cannot be invoked to correct mere errors of fact, if any.

7.3. The Petitioner's allegation of violation of natural justice is without merit. No civil consequences flow from the impugned Order. It merely requires an audit of the Society, which is well within the jurisdiction of the Respondent No. 2.

7.4. The Petitioner itself, in its preliminary objections, admitted that no inquiry under Section 20A can be initiated unless there is an auditor's report under Section 12D of the Act. Since no audit report was available for inspection by the

Respondent No. 2, he is well within his rights to direct an audit pending the inquiry.

7.5. Mr Pangam also produced the original file maintained by Respondent No. 2. He drew the Court's attention to the Roznama maintained by Respondent No. 2 pertaining to the hearing of the complaints, showing that all the parties were given ample opportunity to be heard and were, in fact, heard at length. He points out that the Petitioner has not submitted the audit report for the year 2024-2025 to Respondent No. 2. The file contains only a covering letter and one page of the audit report. He also refers to the High Court Order dated 3rd February 2026, which directed that the inquiry before the Registrar be concluded within six months from the date on which the certified copy of the Order was made available. In these circumstances, Mr Pangam says that the Petition has no merit and should be dismissed.

7.6. The Respondent no. 3 also supported the arguments advanced on behalf of the Respondents no. 1 and 2.

ANALYSIS

8. Before adverting to the rival submissions made by the parties, it is necessary to reproduce the relevant provisions of the Society Registration Act (Goa Daman and Diu First Amendment) Act 1979.

Section 12C reads as follows ***:***

*"**12C Maintenance of accounts and their balancing and accounting**. — (1) Every governing body entrusted with the management of the affairs of a society registered under this Act shall keep regular accounts.*

(2) Such accounts shall be kept in such form as may be approved by the Inspector-General and shall contain such particulars as may be prescribed.

(3) The accounts of a Society shall be balanced each year on the 31st day of March, or such other date as may be fixed by the Inspector-General.

(4) The accounts of a society shall be audited annually in such manner as may be prescribed and by a person who is a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (Central Act 38 of 1949), or by such persons as may be authorized in this behalf by the Government."

Section 12D reads as follows:

***12D. Auditor's duty to report irregularity**. — (1) It shall be the duty of every auditor, auditing the accounts of a society under section 12C, to prepare a report relating to auditing such accounts and forward a copy of the same to the Inspector-General.*

(2) The auditor shall, in his report, specify all cases of irregular, illegal or improper expenditure, or failure or omission to recover moneys or other property thereof, and state whether such expenditure, failure, omission, loss or waste was caused in consequence of breach of trust, or misappropriation or any other

misconduct on the part of the governing body or any other person."

Section 20A reads as follows :

"20A. Investigation of affairs of society.- *(1) Where, on information received under section 4A or otherwise, or in circumstances referred to in section 12D, the Inspector-General is of the opinion that there is apprehension that the affairs of the society registered under this Act, are being so conducted as to defeat the objects of the society or that the society or its governing body, by whatever name called, or any officer thereof in actual effective control of the society is guilty of mismanaging its affairs or of any breach of fiduciary or other like obligations, the Inspector-General may, either himself or by any person appointed by him in that behalf, inspect or investigate into the affairs of the society or inspect any institution managed by the society.*

(2) It shall be the duty of every officer of the society when so required by the Inspector-General or other person appointed under sub-section (1), to produce any books of accounts or other records of or relating to the society which are in his custody or to give him all assistance in connection with such inspection or investigation.

(3) The Inspector-General or other person appointed under sub-section (1) may, call upon and examine on oath any officer, member or employee of the society in relation to the affairs of the society and it shall be the duty of every officer, member or employee, when called upon, to appear before him for such examination.

(4) The Inspector-General or other person appointed under sub-section (1) may, if in his opinion it is necessary for the purpose of inspection or investigation, seize any or all the records including the accounts books of the society:

Provided that any person from whose custody such records are seized, shall be entitled to make such copies thereof, in the presence of the person having the custody of such records.

(5) On the conclusion of the inspection or investigation, as the case may be, the person, if any, appointed by the Inspector-General to

investigate or inspect, shall make a report to the Inspector-General on the result of his inspection or investigation.

(6) The Inspector-General may, after such investigation or inspection, give such directions to the society or its governing body or any officer thereof, as he may think fit, for the removal of any defects or irregularities within such time as may be specified and in the event of default in taking action in accordance with such directions, the Inspector-General may proceed to take action under section 12D."

9. Section 12C mandates that every society registered under the Act balance its accounts each year on the 31st day of March, or such other date as may be fixed by the Inspector General (IG). The accounts must be audited annually by a Chartered Accountant. A copy of the Auditor's report, so prepared, must be forwarded to the IG. Section 12D (2) places the responsibility of specifying all cases of irregular, illegal or improper expenditure on the Auditor concerned, in his report placed before the IG. If the IG, on information received under Section 4A or otherwise, or in circumstances referred to in Section 12D, has an apprehension that the society's affairs are being conducted in a manner as to defeat the objects of the society, or any Officer of the Government body is guilty of mismanaging its affairs, or there is any breach of fiduciary or other obligations, the IG may inspect or investigate the affairs of the society. The IG may investigate himself or through any other person. Only after the IG forms an opinion on the aforesaid apprehension may he direct the society to remove any defects or irregularities. If the society fails to comply with these directions, the IG may then proceed to take further action as contemplated under the Act.

10. In the present case, the Registrar's original file, produced by Mr Pangam, clearly shows that the Petitioner placed on record a covering letter addressed to Respondent No. 2, accompanied by one page of the audit report for the financial year 2024-2025. The IG was never furnished with a copy of the complete internal audit report. There was no compliance with Sections 12C and 12D of the Act. Pursuant to this Court's Order dated 3rd February 2026, Respondent No. 2 was bound to complete the inquiry within six months thereafter. Respondent No. 2 issued notices to all the parties, who have filed their respective replies. Respondent No. 2 considered the preliminary objections raised by the Petitioner, *namely*, that (i) Respondent No. 3 had not disclosed the source of the documents filed by him along with his complaint; (ii) there was no audit report of the Petitioner-society before Respondent No. 2 to form an opinion; and *(iii)* without first exhausting the ombudsman's mechanism in the constitution of the Petitioner-society, Respondent No. 2 had no jurisdiction to entertain such a complaint.

11. A close examination of the impugned Order reveals that Respondent No. 2 has addressed the preliminary objections raised by the Petitioner and found them devoid of merit. I have examined the Memorandum of Association of the Petitioner-society. Clause 21 of the same provides for the Ombudsman cum Ethics Officer. An Ombudsman is appointed to provide an independent dispute resolution mechanism. The types of disputes that fall within the Ombudsman's jurisdiction are stipulated in Clause 22, as follows:

> "**Clause 22 – GRIEVANCE REDRESSAL**
>
> *(1) The types of disputes/ differences that form the Ombudsman's ambit and the procedures for redressal arc:*
>
> *(a) Member, Association & Franchisee Disputes*
>
> *Any disputes between or among the Association, its Members, and the Cricket Players' Association shall be automatically referred to the Ombudsman.*
>
> *Procedure: Both parties would submit their arguments, and a hearing would be conducted following the principles of natural justice and exercising all powers of enquiry and hearing as the Ombudsman deems fit before appropriate orders are passed.*
>
> *(b) Detriment caused by Member or Administrator*
>
> *It any Member or any Administrator of the association commits any act of indiscipline or misconduct or acts in any manner which may or likely to be detrimental to the interest of the Association or the game of cricket or endanger the harmony or affect the reputation or interest of the association or refuses or neglects to comply with any of the provisions of the Memorandum and/or the Rules and Regulations of the Association and/or the Rules of conduct framed by the Association, the Managing Committee, on receipt of any complaint shall issue a Show Cause Notice calling for explanation and on receipt of the same and/or in case of no cause*

or insufficient cause being shown, refer the same to the Ombudsman.

Procedure: The Ombudsman shall, after providing opportunity of hearing to the parties concerned, pass an appropriate order.

(c) Misconduct or Breach by Others

In the event of any complaint being received from any quarter or based on any report published or circulated or on its own motion, of any act of indiscipline or misconduct or violation of any of the Rules and Regulations by any Player, Umpire, Team Official, Selector or any person associated with the Association, the Managing Committee shall refer the same within 48 hours to the CEO to make a preliminary enquiry.

(3) The decision of the Ombudsman shall be final and binding and shall come into force forthwith on being pronounced and delivered.

(4) Any Administrator, Player, Match Official, Team Official, Selector or other individual associated with the Association on being found guilty and expelled by the Association shall forfeit all their rights and privileges. He or she shall not in future be entitled to hold any position or office or be admitted in any committee or any role on the Association.

(5) A Member or Franchise once expelled, may, on application made after expiry of three years since expulsion, be readmitted by the Association, provided the same is accepted at a General Body meeting by 3/4th members present and voting.

(6) Pending inquiry and proceeding into complaints or charges of misconduct or any act of indiscipline or violation of any Rules and Regulations, the concerned Member, Administrator, Player, Match Official, Team Official, or other individual associated with the Association (along with their respective privileges and benefits) may be suspended by the Apex Court until final adjudication. However, the said adjudication ought to be completed within six months, failing which the suspension shall cease."

12. The present complaint by Respondent No. 3 against the Petitioner-society and Respondents No. 4 and 5 concerns allegations of financial irregularities. It is alleged that substantial public funds of the Petitioner-society were siphoned by the erstwhile members of the Managing Committee of the Petitioner-society; purchase orders were issued without calling for tenders and without adhering to the process laid down in the rules of business of the Petitioner-society; unprecedented and unauthorized expenditure was incurred to organize various events; and cricket kits and other equipment of the Petitioner-society were not found in the custody of the Petitioner but were found lying in the club of the erstwhile Secretary, etc. A plain reading of Clause 22 of the Memorandum of the Petitioner Society clearly demonstrates that the ombudsman will not have the power to investigate or inquire into the aforesaid allegations. Moreover, Respondent No. 2 commenced the inquiry pursuant to the directions dated 3rd February 2026 issued by this Court. Hence, Respondent No. 2 has correctly exercised the jurisdiction vested in him under Section 20A of the Act. The observation of the Respondent No. 2 in the impugned Order that the mere existence of an alternate remedy does not bar him from exercising powers vested in him under the Statute itself is also correct.

13. Insofar as Mr. Sardessai's argument regarding non-application of mind and non-recording of the subjective satisfaction of Respondent No. 2 is concerned, it is clear from the order itself that it is an interim order. Since Respondent No. 2 admittedly did not have the benefit of examining the Petitioner-society's audit report, as only one page of the audit report along with the covering letter was in his file, he has simply directed an independent audit of the Petitioner's accounts to be conducted by an independent auditor by the impugned order. Although Respondent No. 2 could, ideally, have directed the Petitioner to furnish the complete internal audit report, this by itself does not render his decision illegal. Accordingly, Respondent No. 2, by its impugned letter dated 29th May 2026, requested the Chairman of the Institute of Chartered Accountants of India (Goa Branch) to furnish a panel of three suitable auditors to undertake a detailed examination of the books of accounts of the Petitioner-society. Respondent No. 2 is yet in seizin of the matter and has not passed any orders affecting the rights of the Petitioner-society. Similarly, the Petitioner-society is not visited by any civil consequences due to the interim order. In fact, the so-called independent audit report will assist Respondent No. 2 in forming an opinion, as contemplated in Section 20A of the Act. Hence, I do not find any infirmity in the impugned order.

14. I have also perused the decisions relied upon by Mr. Kantak. In **Bhikubhai Vithlabhai Patel vs. State of Gujarat** (*supra*), the Supreme Court, concerned with the State Government's action in making substantial modifications to the revised draft development plan, observed that the formation of an opinion is a condition precedent to setting the law in motion for proposing such modifications. The subjective opinion must be based on material disclosing the necessity of substantial modifications to the draft development plan. The facts in the present case are quite distinct from those in **Bhikubhai Vithlabhai Patel vs. State of Gujarat** (*supra*). The provision in that matter required the formation of an opinion to modify the plan, whereas the provision in the present matter requires an opinion as to an apprehension of financial mismanagement. Even assuming that the IG must form a subjective opinion, it is required only while passing final orders. At this stage, the IG has merely sought an independent audit report to assist in forming a subjective opinion. Therefore, **Bhikubhai Vithlabhai Patel vs. State of Gujarat** (*supra*) does not assist Mr. Kantak.

15. Mr. Kantak's reliance on the decision in **Kulswami Co-operative Credit Society Ltd. vs. State of Maharashtra** (*supra*) is also misconceived, as that decision concerned Section 81(3)(c) of the Maharashtra Societies Act

1960, wherein this Court held that a test audit ought not to have been directed merely on the basis of a complaint, without any verification of the correctness of the allegations. The facts in that case are also quite distinct from the present case, as no final order was passed by the IG. In fact, on account of non-compliance with Sections 12C and 12D of the Act, the IG was required to call for an independent audit report. In **Barium Chemicals Ltd vs. Company Law Board** (*supra*), the Supreme Court was concerned with Section 237 of the Companies Act 1956, which vests the Central Government with the power to appoint an Inspector to investigate the affairs of a company in certain circumstances. The Supreme Court held that the formation of an opinion must be as to whether there are circumstances suggesting the existence of one or more of the matters specified in sub-clauses (i) to (iii) of Section 237(b) of the Companies Act. Once again, the requirement under this provision is quite distinct from the import of Section 20A of the Act.

16. The scope of the High Court's power of superintendence over the Courts and Tribunals in their jurisdiction is confined to be exercised in cases where the Court or Tribunal has exercised the power that it does not possess; it has failed to exercise the power that it does have, and where the manner of exercise of power has amounted to a transgression of jurisdiction. It is settled law that the High Court exercising supervisory jurisdiction does not act as a Court of first appeal to re-appreciate, re-weigh the evidence or facts upon which, the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supportive. The High Court is not to substitute its own decision on facts and conclusion for that of the inferior Court or Tribunal.

17. In the present case, in the absence of any audit report furnished by the Petitioner-society in compliance with Sections 12C and 12D of the Act, Respondent No. 2-IG has directed an independent audit to aid him in discharging his duty under Section 20A of the Act. The auditors are from a panel to be furnished by the Institute of Chartered Accountants of India and are therefore independent auditors. The impugned order is an intervening order to facilitate an inquiry under Section 20A of the Act, if found necessary after examining the independent audit report; Respondent No. 2-IG has acted within the scope and ambit of his jurisdiction. The impugned order thus needs no interference.

18. Considering the aforesaid discussion, the Petition is dismissed.

19. The rule is accordingly discharged.

20. Learned Counsel appearing for the Petitioner sought continuation of interim stay granted vide Order dated 3rd June 2026.

21. The said request is allowed. Interim Order dated 3rd June 2026 to continue for a period of one week from today.

22. Writ Petition is disposed of.

DR. NEELA GOKHALE, J