



GAHC010132902020

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3801/2020

LUTFOR RAHMAN
S/O- LT. NAYEB ALI, VILL.- SADULLABARI, P.O.- KALAPANI, DIST.- SOUTH
SALMARA MANKACHAR, ASSAM, PIN- 783135.

VERSUS

THE STATE OF ASSAM AND 18 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
COOPERATION DEPTT., DISPUR, GHY- 6.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GHY- 22.

3:THE ADDL. REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GHY- 22.

4:THE ASSTT. REGISTRAR OF CO-OPERATIVE SOCIETIES
HATSINGIMARI
P.O.- HATSINGIMARI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

5:MOMIRUL ISLAM
I/C SECY. OF KALAPANI S.S. LTD.
S/O- LT. MOHAMMAD ALI
VILL.- BORBILA
P.O.- KALAPANI



P.S.- MANKACHAR
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

6:SHAHJAHAN ALI (ANGUR)
S/O- SAMSUL HOQUE
VILL. AND P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

7:ABDUL MOTALEB
S/O- HAZRAT ALI
VILL.- NANDIA
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

8:ABDUL BATEN (GOLLA)
S/O- LT. KHADEM ALI
VILL.- JANGAL CHARIALI AND P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

9:GIAS UDDIN AHMED
S/O- LT. ABUL FAZAL SK
VILL.- BAGHAPARA AND P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

10:SHAJIBUL HASSAN MOLLAH
S/O- MONJIL HUSSAIN
VILL.- BALIABIL
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

11:SAKIBOR RAHMAN
S/O- BODIYAT ZAMAL
VILL.- CHOMRARSALI

P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR



ASSAM
PIN- 783135.

12:NOOR ALOM
S/O- ABU BOKKAR SIDDIQUE
VILL.- BENERBHITA
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

13:ABUL KALAM
S/O- BODIYAT ZAMAN
VILL.- NIZ- CHIRAKHOWA
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

14:ABDUL KUDDUS SARKAR
S/O- GOLAM ALI
VILL.- JANGAL BLOCK
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

15:NUR MOHAMMAN
S/O- LT. MOHOR ALI
VILL.- KAZIPUR
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

16:RASHIDA BEGUM
W/O- ALTAB HUSSAIN
VILL.- KAZIPUR
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

17:DHARMENDRA HAJONG
S/O- KANAIRAM HAJONG
VILL.- KALAPANI
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR



ASSAM
PIN- 783135.

18:TAPOSHI SAHA
W/O- LT. ROBI SAHA
VILL.- NIZ KALAPANI
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135.

19:KARAM ALI
S/O- LT. MAMUD ALI
VILL.- BAUSKATA
P.O.- KALAPANI
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135

Advocate for the Petitioner : Mr. U. K. Nair, Senior Advocate
Mr. R. Islam, Advocate

Advocate for the Respondents : Mr. A. R. Bhuyan, Advocate
Mr. S. K. Talukdar, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 15.09.2023

Date of Judgment : 15.09.2023

JUDGMENT AND ORDER (ORAL)

M/S. Kalapani Samabay Samity Ltd. (hereinafter referred to as the ‘Society’) is registered under the Assam Co-operative Act, 1949. The petitioner herein was elected as the Chairman of the said Society in the first meeting of the Board of Directors which was held on 10.07.2019. At this stage, it is relevant to mention that the last election of the Society was held on 23.06.2019 and as many as 15 numbers of Directors were

elected including the petitioner. The term of the Board in terms with Section 31 of the Assam Cooperative Societies Act, 2007 (for short, 'the Act of 2007') is five from the date of the election of the Directors and the term of the Directors as per Section 42 of the Act of 2007 is 5 years from the date of the election.

2. It is the case of the petitioner that after assuming the charge as the Chairman of the Board of the Directors of Society, he held Board meeting regularly and the first Board meeting was held on 10.07.2019, and thereafter, on 18.08.2019 and 10.11.2019. It is claimed by the petitioner that under his Chairmanship, the Society was running smoothly without any blemish from any corner. But, of late, at the instigation of the in-Charge Secretary of the Society, i.e. the respondent No. 5 who was restrained from lifting of the PDS/TDPS/NFSA items of the Society due to his corrupt practices in the earlier term of the Society along with some of the Directors who have been arrayed as the respondent Nos.6, 7 & 9, a conspiracy was hatched against the petitioner to oust him from the post of the Chairman.

3. It is the further case of the petitioner that most of the Directors of the Board including the respondent Nos. 6, 7 & 9 had given a proposal to the petitioner that the petitioner should give Rs. 20,000/- per month to each of the Directors without any reason. But the petitioner declined to abide by the said proposal. Under such circumstances, the respondent No.5, in concert with the respondent Nos. 6, 7 & 9 along with other Directors, submitted a purported requisition for conveying meeting of no-confidence motion against the petitioner on 26.12.2019 before the Assistant Registrar of Co-operative Societies, Hatsingimari with certain baseless and concocted allegations against the petitioner.

4. It is the specific case of the petitioner that no copy of the said requisition was addressed to as well as furnished to the petitioner. The Assistant Registrar of Cooperative Societies, Hatsingimari who is the respondent No.4 directed one Manjit Sarkar, Senior Inspector/Auditor of the Co-operative Societies, Hatsingimari to conduct an enquiry into the matter vide the communication dated 27.12.2019. On the basis of the

said direction, the said Shri Manjit Sarkar issued a letter on 31.12.2019 to the Secretary of the Society and requested him to inform all the Directors of the Society to appear in the Society's Office on 03.01.2020 at 10:00 AM with relevant documents for the said enquiry and the copy of the said letter was also communicated to the petitioner. On the said date, i.e. on 03.02.2020, a hearing was conducted by the said Manjit Sarkar wherein the petitioner submitted his point of view but it is alleged that no enquiry report was thereafter furnished to the petitioner. It is further stated that in the meantime, on 02.01.2020, the Additional Deputy Commissioner, South Salmar Mankachar, Hatsingimari had again allowed the respondent No.5 to lift and distribute the PDS/TDPS/NFSA-13 along with Mid-Day Meal rice for the Society instead of one Shohidur Rahman, Salesman of the Society who was entrusted for lifting and distributing the essential commodities of the Society vide resolution dated 22.06.2017 adopted by the Board of Directors of the Society. The petitioner who was shocked at such direction issued by Additional Deputy Commissioner, South Salmar Mankachar, Hatsingimari made an enquiry and came to learned that the said official had under political pressure at the instance of the respondent No.5 as well as the respondent Nos. 6, 7 & 9 have done so. Thereafter the petitioner came to learn that at the instance of the respondent No.5 as well as the respondent Nos. 6, 7 & 9, a resolution was adopted on 20.01.2020 by which the petitioner was removed from the post of Chairman of the Society by way of a purported No-Confidence Motion and also a new Chairman was elected. Thereupon the respondent No.4 had also accorded his approval to the said resolution on 21.01.2020. The petitioner on coming to learn about the same filed an appeal under Section 111 as well as Section 36 (5) of the Act of 2007 before the Registrar of Cooperative Societies, Assam on 24.01.2020 challenging the resolution dated 20.01.2020 as well as also the approval accorded by the respondent No.4 on 21.01.2020. The petitioner also prayed that the petitioner may be permitted to continue as the Chairman of the Society. It is further seen that from the records that after a passage of almost 9 months, the said appeal was dismissed by the Additional Registrar

of Cooperative Society vide an order dated 16.09.2020. It is under such circumstances that the petitioner has approached this Court challenging the order dated 16.09.2020 issued by the respondent No.3, the alleged requisition dated 26.12.2019, the resolution dated 20.01.2020 and its approval accorded by the respondent No.4 on 21.01.2020.

5. The instant writ petition was filed on 24.09.2020. This Court vide the order dated 01.10.2020 issued notice making it returnable on 16.11.2020 and observed that the appointment of the newly elected Chairman and any consequential action taken by him shall be subject to the outcome of the writ petition. The record reveals that the service upon the respondents were duly effected as can be seen from the Office Note dated 15.11.2021 and the order passed by this Court on 01.08.2022. Except the official respondents and the respondent Nos.7 & 9, other respondents did not choose to appear. Record further shows that on 13.09.2023, an affidavit-in-opposition was filed by the respondent No.7 who is the present Chairman of the Society in question.

6. At this stage, this Court finds it relevant to take note of that in the instant writ petition, the petitioner has made various allegations against the respondent Nos.5, 6, 7 & 9 and the respondent No.7 in his affidavit made various allegations against the petitioner of misappropriation etc. However, taking into account the issue as to whether the petitioner would have been ousted from the post of the Chairman vide the resolution dated 20.01.2020, this Court finds it relevant to take note of the affidavit of the respondent No.7 which mentions the manner in which the impugned resolution dated 20.01.2020 was passed.

7. It is case of the respondent No.7 as could be seen from his affidavit that on account of the attitude of the petitioner, the members of the Society submitted requisition for convening a meeting for no-confidence against the petitioner on 26.12.2019. This Court finds it relevant at this stage to mention that the said requisition dated 26.12.2019 had been enclosed as Annexure-5 to the writ petition. From a perusal of the said requisition, it is seen that the said requisition was addressed only to the respondent No.4. It was further mentioned that the respondent No.4 then directed one Sri Manjit Sarkar, Senior

Inspector/Auditor of the Cooperative Societies, Hatsingimari to enquire into the matter and submit the enquiry report within five days from the issuance of the letter dated 27.12.2019. Thereafter, the said Sri Manjit Sarkar wrote a letter dated 31.12.2019 to the Secretary of the Society to inform all the complainants to remain present in the enquiry to be held on 03.01.2020 at 10:00 AM in the Society Office. The said copy of the letter was also delivered to the petitioner as well, requesting him to attend the enquiry along with updated book of accounts and statements related to enquiry. Moreover, the respondent No.5 served a notice on 01.01.2020 to all the concerned persons including the petitioner regarding the said enquiry which the petitioner duly received. It was further mentioned that on 14.01.2020, the respondent No.4 wrote an office letter to the respondent No.5 directing to arrange a Board of Directors meeting in regard to no confidence motion against the then Chairman of the Society. The Secretary arranged a Board of Directors meeting on 16.01.2020. The notice of the meeting was served to the petitioner also on 15.01.2020 by way of an WhatsApp message, as he was not present at home.

Consequent to the resolution taken in the meeting held on 16.01.2020, a meeting was arranged on 20.01.2020 regarding no-confidence motion against the petitioner and the election of a new Chairman of the Society. It was also mentioned that the notice could not be served personally to the petitioner but was delivered to his wife as well as delivered to him by way of WhatsApp message. It was further mentioned that the no-confidence motion was brought following the procedure established in accordance with law and at the instance of the overwhelming majority of the Directors of the Society and therefore the resolution dated 20.01.2020 and the approval dated 21.01.2020 were in accordance with law. It is further seen from a perusal of the affidavit-in-opposition that there have been various statements made defending the appellate order dated 16.09.2020.

8. I have heard the learned counsel for the parties and perused the materials on record.

The issue which arises for consideration in the instant writ petition is as to whether the removal of the petitioner under Section 36 (4) of the Act of 2007 was in accordance with the provision of the Act of 2007 and if not, what reliefs the parties herein are entitled to.

9. For the purpose of deciding the first issue, this Court finds it relevant to take note of some of the provisions of the Act of 2007. Section 35 of the Act of 2007 stipulates that there shall be a Board for the management of every Cooperative Society registered under the Act of 2007 and the Directors shall be elected in accordance with the provisions of the bye-laws. Section 36 of the Act of 2007 stipulates as regards the President and Vice-President of the Cooperative Society. In terms with Sub-Section (1) of Section 36, there shall be a President and a Vice-President in a Cooperative Society to be elected by the Board from amongst its Directors in accordance with the provisions of the bye-laws. The term of President and Vice-President elected by the Board shall be coterminous with the term of the Board meaning thereby in normal circumstances, the term of the President and Vice-President shall be for a period of 5 cooperative years from the date of the election of the Directors. In terms with Sub-Section (2) of Section 36 vacancy in the office of the President or Vice-President shall be filled up by the Board in accordance with the provisions of the bye-laws and the President or the Vice-President so elected shall hold office for the unexpired term of his predecessor. Sub-Section (3) of Section 36 relates to resignation by the President and the Vice-President. It stipulates that the President shall tender his resignation at any time by notice in writing to the Vice-President. However, such resignation shall take effect only from the date of its acceptance by the Board. Sub-sections (4), (5) & (6) of Section 36 being relevant for the purpose of the instant dispute are reproduced hereinunder:-

“(4) The Board may, by a resolution passed by three-fourth majority of the Directors present and voting at a meeting held for the purpose, remove the President or Vice-President. Such meeting shall not be presided over by the President or Vice-President against whom such resolution is to be considered.

(5) The President or Vice-President as the case may be aggrieved by the resolution passed under sub-section (4) may appeal to the Registrar within thirty days from the date of passing: of such resolution whose decision thereon shall be final.

(6) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal or otherwise, the Vice-President shall act as President until the date on which a new President is elected in accordance with the provisions of this Act and the Bye-laws to fill such vacancy.”

10. A conjoint reading of the of the above quoted provisions of Section 36 shows that the Board may by a resolution passed by three-fourth majority of the Directors present and voting at a meeting held for the purpose, remove the President or the Vice-President. It is mentioned that such meeting shall not be presided over by the President or the Vice-President against whom such resolution is to be considered. Sub-section (5) of Section 36 gives the President or the Vice-President as the case may who is aggrieved by a resolution adopted under Sub-section (4) of Section 36 to appeal to the Registrar within thirty days from the date of passing of such resolution and in such case the decision of the Registrar shall be final. Sub-section (6) of Section 36 stipulates that in the event of occurrence of any vacancy in the office of the President by reason of his death, resignation or removal or otherwise, the Vice-President shall act as the President until the date on which a new President is elected in accordance with the provisions of the Act of 2007 and the Bye-laws to fill such vacancy.

11. Now taking into consideration that a resolution for removal of the President of the Vice-President of a Cooperative Society is to be done in a Board’s meeting, this Court finds it relevant to take note of Section 43 of the Act of 2007 which relates to Board meeting. Sub-section (1) of Section 43 stipulates that the a meeting of the Board may be called at any time by the President or the Chairman, as the case may be, and in the event of being incapable of acting, then by the Vice-President or the Vice-Chairman but at least four meetings of the Board shall be held in a financial year and the period between two consecutive meetings shall not exceed one 120 days. Therefore, the said Sub-section

(1) confers the authority as well as the discretion upon the President or the Chairman of the Society and if incapacitated, then to the Vice-President or the Vice-Chairman to call for a Board meeting at any time but is bound to have at least four meetings of the Board in a financial year and the period between two consecutive meetings shall not exceed 120 days. Sub-sections (2), (3), (4), (5) & (6) of Section 43 is very pertinent for the purpose of the instant dispute and as such the same is reproduced hereinunder:-

“(2) The President or Chairman and in the event of his being physically incapable of acting, the Vice-President or Vice-Chairman may, whenever he thinks fit, call a special meeting of the Board and shall be bound to do so within fifteen ‘days of the date of receipt of a written requisition—

- (a) signed by not less than one third of the Directors of the Board; or*
- (b) from the Registrar; or*
- (c) from the auditor.*

Such requisition shall contain the reasons as to why the meeting is felt necessary and the proposed agenda and no subject other than the subjects included in the proposed agenda shall be discussed at the special meeting of the Board.

(3) If the President or Chairman, Vice-President or Vice-Chairman, as the case may be, fails to hold the meeting of the Board under sub-section (1) or the special meeting of the Board under sub-section (2) within the period specified therein, he shall cease to be President or Chairman, Vice-President or Vice-Chairman, as the case may be, on the date of expiry of the specified period. In which case the remaining Board members shall elect a new President or Chairman, Vice-President or Vice-Chairman, as the case may, from among themselves.

(4) A person who ceases to be the President or Chairman Vice-President or Vice-Chairman, as the case may be, under sub-section (3) shall not be eligible to hold the office of President or Chairman, Vice-President or Vice-Chairman, as the case may be, for a period of three years from the date of such cessation.

(5) The quorum for a meeting of the Board shall be such as may be specified in the bye-laws but shall not be less than fifty percent of the total number of Directors of the Board.

(6) Subject to the provisions of this Act, the procedure to convene and conduct the meeting of

the Board shall be such as may be specified in the bye-laws.”

12. In terms with Sub-section (2) of Section 43 in the event of the president or the Chairman being physically incapable of acting, the Vice-President or the Vice-Chairman may, whenever he thinks fit, call a special meeting of the Board and shall be bound to do so within fifteen days of the date of receipt of a written requisition. Sub-clauses (a), (b) and (c) of Sub-section (2) of Section 43 stipulate who can issue the written requisition. In terms with Sub-clause (a), such written requisition has to be signed by not less than one third of the Directors of the Board; or as per Sub-clause (b), from the Registrar; or as per Sub-clause (c) from the auditor.

13. At this stage, it is relevant to take note that this Court has made a specific query upon Mr. S. K. Talukdar, the learned counsel appearing on behalf of the Cooperation Department as to whether the power to issue a written requisition by the Registrar in terms with Sub-section (2) of Section 43 had been delegated to the Assistant Registrar of the Cooperative Societies. The learned counsel appearing on behalf of the Cooperation Department submitted that the Assistant Registrar of the Cooperative Societies had not been delegated such power by the Registrar of the Cooperative Societies. It is only Deputy Registrar of the Cooperative Societies who have been delegated such powers. This Court further finds it relevant that such requisition so made shall contain the reason as to why the meeting is felt necessary and the proposed agenda and no subject other than the subjects included in the proposed agenda shall be discussed at the special meeting of the Board.

14. Sub-section (3) of Section 43 stipulates a serious consequences if the President or the Chairman, the Vice-President or the Vice-Chairman, as the case may be, fails to hold the meeting of the Board under Sub-section (1) or the special meeting of the Board under Sub-section (2) within the period specified therein in as much as the President or the Chairman, the Vice-President or the Vice-Chairman, as the case may be, on the date of expiry of the specified period, i.e. 15 days from the date of receipt of the written

requisition shall cease to be the President or the Chairman, the Vice-President or the Vice-Chairman, as the case may. In such case, the remaining Board members shall elect a new President or the Chairman, the Vice-President or the Vice-Chairman as the case may be from amongst themselves.

15. Sub-section (4) of Section 43 further stipulates that if a President or the Chairman or the Vice-President or the Vice-Chairman, is removed under Sub-section (3) of Section 43 such person shall not be eligible to hold the office of the President or the Chairman, the Vice-President or the Vice-Chairman, as the case may be, for a period of three years from the date of such cessation.

16. In terms with Sub-section (5), the quorum of the Board shall not be less than 50% of the total number of Directors of the Board. But the use of the word as may be specified in the bye-laws also means that a quorum can be increased beyond 50% but not less than 50%.

17. Subsection (6) of Section 43 stipulates that the procedure to convene and conduct the meeting of the Board shall be such as may be specified in the bye-laws. But such procedure shall however be subject to the provisions of the Act of 2007.

18. Before further proceeding, this Court finds it relevant to observe that there is a mark difference between a meeting called under Sub-section (1) of Section 43 with a meeting called under Sub-section (2) of Section 43. Under Sub-section (1) of Section 43, meetings are called by the President or the Chairman and in the event of being incapable of acting, then by the Vice-President or by the Vice-Chairman. However, the meetings which are called under Sub-section (2) of Section 43, are special meetings which are to be convened on the basis of written requisition, that too within 15 days from the date of receipt of the written requisition. Further to that, whether requisitions for such special meetings have to have a proposed agenda and no subject other than the subject included in the proposed agenda shall be discussed at the special meeting of the Board.

19. Now reading Section 36 (4) of the Act of 2007, it would be seen that for the purpose of removing the President or the Vice-President, the meeting of the Board should be held for the purpose only for removing the President or the Vice-President. Therefore, the meeting in terms with Section 36(4) has to be a special meeting within the meeting of Section 43 (2) of the Act of 2007.

20. In the backdrop of the above analysis of the provisions, let this Court take into consideration the facts involved in the instant case. From the facts as narrated herein above, it would be seen that the 14 members of the Board of Directors did not submit any requisition to the petitioner who is the Chairman of the Society. The requisition was made on 26.12.2019 to the Assistant Registrar of Cooperative Societies, i.e. the respondent No.4. Although in the affidavit-in-opposition filed by the respondent No.7, there is a mention of a resolution taken in the Board meeting held on 16.01.2020 to hold a Board meeting on 20.01.2020 regarding the no-confidence motion against the petitioner and the election of the new Chairman of the Society, but neither such resolution is a part of the record nor the fact of such resolution is seen in the minutes of the meeting held on 20.01.2020. Apart from that it is totally misconceived that a Board meeting dated 16.01.2020 could have been called in such manner at the directions of the Assistant Registrar of the Cooperative Societies as the said official had no authority to issue such directions. On the other hand, a perusal of the minutes of the meeting held on 20.01.2020 shows that the said special meeting was held as per the direction of the respondent No.4 who issued a letter bearing No.SMGP1/2019/Pt.-II/16 dated 18.01.2020. This Court at the cost of repetition reiterates that for removal of the President/the Vice-President of the Society in terms with Section 36 (4), the meeting so required to be held is a special meeting. The facts in the present case however would show that the mandate of Section 43 (2) of the Act of 2007 was not complied with. The reason for opining the said is primarily that the written requisition so made by the 14 Directors was not to the President or the Chairman. Furthermore, as already stated

herein above, the respondent No.4, i.e., the Assistant Registrar of Cooperative Societies does not have the authority to issue a written requisition to the President or the Vice-Chairman for calling for a special meeting in as much as the said power is reserved for the Registrar of Cooperative Societies who admittedly had not been delegated to the Assistant Registrar of Cooperative Societies. Therefore, the meeting which was held on 20.01.2020 on the direction of the Assistant Registrar of Cooperative Societies, i.e. the respondent No.4 is on the face of it in contravention to the provision of Section 43 (2) of the Act of 2007. Furthermore, a period of 15 days is given to the President or the Chairman to call a special meeting of the Board from the date of receipt of the written requisition and the serious consequences befalls for not holding the meeting as stipulated in Sub-sections (3) & (4) of Section 43 of the Act of 2007. The consequences for not holding the meeting pursuant to a written requisition further makes it clear that the a special meeting cannot be called in any other manner other than by serving the written requisition upon the President or the Chairman of the Society. It is also seen in Section 43 (2) of the Act of 2007 that the Vice-President can exercise authority only when the President “being physically incapable of acting” which is also a pointer that it is only when the President or the Chairman is physically incapable of acting, then only the Vice-President or the Vice-Chairman can call a special meeting of the Board. Under such circumstances, the meeting which was held on 20.01.2020 thereby expressing no-confidence against the petitioner and appointing the respondent No.7 as the Chairman is totally inconsistent with the provisions of the Act of 2007 and accordingly the said resolution so adopted in the meeting dated 20.01.2020 is set aside and quashed. The consequential orders dated 21.01.2020 and 16.09.2020 are also set aside and quashed. The result of such setting aside of the impugned resolution dated 20.01.2020 and the approval dated 21.01.2020 is that the petitioner is reinstated as the Chairman of the Society with immediate effect.

21. This Court also cannot be unmindful of the fact that the President and the Vice-

President of a Cooperative Society has to enjoy the confidence and trust of the members of the Board in as much as it is the members of the Board who have elected the President and the Vice-President by virtue of Section 36 (1) of the Act of 2007.

22. Under such circumstances, the requisition so made by the 14 members of the Board of the Society on 26.12.2019 which was addressed to the respondent No.14 be deemed to be addressed to the petitioner on the basis of the instant order as on date. The learned counsel for the petitioner submitted that taking into account that today is Friday, the period of 15 days be counted from Monday. In view of the said submission, this Court taking into account the mandate of 15 days in terms with Section 43 (2) of the Act of 2007, grants the liberty to the petitioner to call for the special meeting of the Board till 03.10.2023.

23. It is made clear that if the petitioner fails to call for the special meeting within the above stipulated period, the consequences in terms with Sub-sections (3) & (4) of Section 43 of the Act of 2007 would befall upon the petitioner.

24. With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant