



Superintendent

IN THE COURT OF THE ADHOC DISTRICT JUDGE-1, FTC,
VELHO BUILDING, AT PANAJI

CIVIL SUIT No. 52/2012

Mr. Nikhil Bhingarde
Son of Sanjay Bhingarde,
21 years of age, Indian National,
Resident of Anant Residency,
Jaycee Nagar, Ponda, Goa

.. Plaintiff

V/S

1. Goa University,
Through its Registrar,
Taleigao, Taluka Tiswadi, Goa
2. Dr. Rahul Tripathi,
Director,
Directorate of Students' Welfare & Cultural Affairs,
Goa University,
Taleigao, Taluka Tiswadi, Goa
3. Chief Secretary,
Government of Goa
Secretariat, Porvorim, Goa

.. Defendants

Shreekrishna D. D. D.
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Superintendent

(B.E.) course with the Goa Engineering College, Farmagudi, Taluka Ponda, Goa and is currently in the 4th year of the aforestated academic course.

2. The Defendant No. 1, is Goa University is the university established under the Goa University Act, 1984, for the purpose of furthering objects enumerated in terms of Section 4 of the said Act. It is submitted that the Defendant No. 1 is an instrumentality of the State Government, as the Defendant No. 1 is under the control, direction, supervision and management including in the matter of finance.

3. The Defendant No. 2, is Dr. Rahul Tripathi, Convenor of the Directorate of Students' Welfare and Cultural Affairs established under the Goa University Act, 1984. It is submitted that the Defendant No. 2 manages and controls the matter pertaining to the election process of University Class Representatives (UCRs); University Faculty Representatives (UFRs) and the Executive Committee (EC) of the Goa University Students Council.



Superintendent

4. The Plaintiff state that for the purpose of issue of Notice and Summons, the addresses of the Defendants shall be the same as mentioned in the Cause Title.

5. It is submitted that in terms of the mandate of Section 22 (m) the Defendant No. 1 is to formulate statutes for the establishment and recognition of Students Council or other association of teachers, academic staff or other employees. It is submitted that Statute relating to the formation of the Students' Council of the Goa University is "Statute SSA-7".

6. It is the case of the Plaintiff that in terms Clause (iv) (a) (2) (b) of the Statute relating to the formation of the Students' Council of the Goa University (Schedule SSA-7) and hereinafter referred to as the 'said statute', each class in a Faculty shall elect one representative on the Electoral College of that Faculty. Such a representative is called "University Class Representative" (UCR). Such election for forming the Electoral College are to be held by ballot on the basis of the principle of simple majority vote.



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7. It is submitted that in terms of the Clause (iv) (a) (2) (d) it is the duty of the Defendant No. 2, the Director of Students' Welfare to fix and announce a date for holding election of Class Representatives which is ordinarily not later than 40 days from the commencement of the academic year, i.e., deemed to have commenced on 20th June, and end of 19th June of the following year, subject to changes if so notified by the University.
8. It is submitted that in terms of the aforesaid clause the Principal of a College/Head of the recognized Institution are to make the necessary arrangements for holding the election on the notified dates.
9. It is further the case of the Plaintiff that in terms of Clause (iv) (a) (2) (e), and (f), these elected UCRs within 10 days after their election ought to elect one from among themselves to be a member of the Students' Council to represent the respective Faculty in the College/Institution. It is submitted that such an elected member is known as "University Faculty Representative" (UFR). It is submitted that such election to the Students' Council is to be held by



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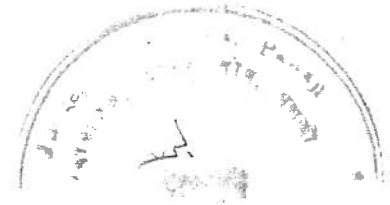
Superintendent

ballot and in accordance with the system of simple majority of votes.

10. It is submitted that in terms of Clause (iv) (a) (2) (k), the name/s of such UFRs/UCRs duly elected are to be communicated by the Principal/Head of the Institution within two days from the date of election of the UFRs to the Defendant No. 2, Director of Students' Welfare of the Goa University in forms F and G respectively.

11. It is submitted that in terms of Clause (viii) of the said statute, it is the duty of the Defendant No. 2, the Director of Students' Welfare, to conduct the election for the Executive Committee of the Student's Council. It is submitted that the students representatives (UFRs) elect from amongst themselves the President, the Secretary and seven members of the Students' Executive Committee of whom at least one ought to be a lady student.

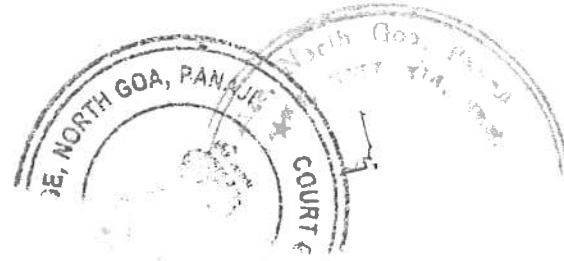
12. It is submitted that the procedure for election of UCRs, UFRs and member of the Executive Committee of the Students' Council is prescribed in terms of Clause (ix) (a), (b), (c) and (d) of the said statute. In



(Signature)

terms of Clause (ix) (a), the Notification for election of the various UCRs has to be issued by the Defendant No.

2, Director of Students' Welfare within 20 days from the commencement of the first term notifying the date of elections which has to be within 40 days from the commencement of the term. Similarly, in terms of sub-clause (b) the elections of the UFRs has to be held within 10 days of the date of the Elections of the UCRs. Similarly, in terms of Clause (ix) (c) the notification for the election of the members of the Executive Committee of the Students' Council has to be issued by the Director of Students' Welfare by giving at least 10 days notice. The election has to be held within 10 days from the date of the elections of the UFRs. In this notification the programme of the filling of the nomination/withdrawals/scrutiny etc. will be clearly indicated. And in terms of the sub-clause (ix) (d), it is stipulated that the results of the elections of the UFRs and of the members of the Executive Committee of the Students' Council are to be declared within 2 days of their respective dates of elections.



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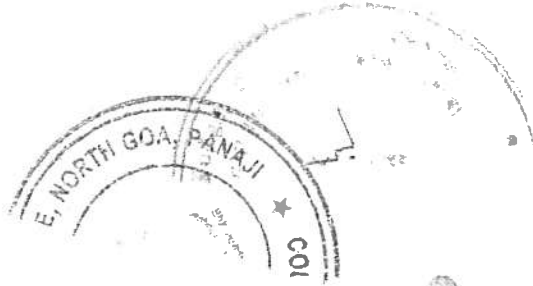
13. It is further submitted that in terms of Clause (x)(a) it is mandatory that the Principals of the Colleges/Heads of the Institution/Director of Students' Welfare or their Nominees prepare separate lists of voters for each class and the same be notified and displayed on the notice board. The cut off date for the voters list shall be 20th July, of the relevant academic year.

14. It is submitted that it is mandatory in terms of Clause (x) (b) of the said statute that the Defendant No. 2, the Director of Students' Welfare by a notification inform the date and the places for the following

stages:-

- a. The nomination of candidates.
- b. The scrutiny of nominations.
- c. The withdrawals of candidature.
- d. The record of votes.
- e. Counting of votes.
- f. Declaration of results.

15. It is submitted that the Defendant No. 2, in accordance with the mandate of the said statute issued a Notification bearing No.



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GU/DSW/GJSC/Election/2012-13 on 10.07.2012
enumerating the Schedule for Election of UCRs, UFRs,
and Executive Committee of the Goa University
Students' Council as under:-

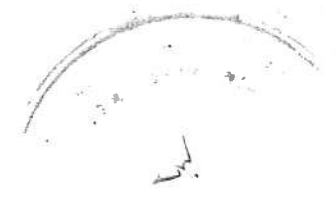
ELECTION OF THE CLASS REPRESENTATIVE (U.C.R.)

- Last date of Nomination: 24, July, 2012, Tuesday upto 4pm
- Date of Scrutiny: 25 July, 2012, Wednesday, bet. 3pm to 5pm
- Date of Withdrawal: 27 July, 2012, Friday, upto 4pm
- Date of Election: 30 July, 2012, Monday, between 11 am to 12 noon followed by results



ELECTION OF THE FACULTY REPRESENTATIVE (U.F.R.)

- Last date of Nomination: 1st August, 2012, Wednesday upto 4pm
- Date of Scrutiny: 2nd August, 2012, Thursday, between 3pm to 5pm
- Date of Withdrawal: 3rd August, 2012, Friday, upto 4pm
- Date of Election: 7th August; 2012, Tuesday, between 11 am to 12 noon followed by results.



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ELECTION OF THE EXECUTIVE COMMITTEE OF THE GOA UNIVERSITY STUDENTS' COUNCIL

Last date of Nomination: 13th, August, 2012, Monday upto 4pm

Date of Scrutiny: 14th, August, 2012, Tuesday, bet. 3pm to 5pm

Date of Withdrawal: 16th, August, 2012, Thursday, upto 4pm

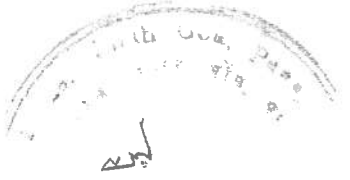
Date of Election: 21st, August, 2012, Tuesday, between 11 am to 12 noon followed by results



16. It is further submitted that in terms of this notification Venue for the purpose of holding the aforesated elections was fixed by the Defendant No. 2 in terms of the following:-

For College elections - college premises fixed by Principal.

For University elections - Arts Faculty, seminar hall.



17. It is further submitted that in terms of this notification affiliated Principals of Affiliated Colleges/ Recognised Institutions were directed to make the necessary

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of

arrangements for holding of the election on the dates as mentioned in the notification and were further directed to notify the detailed programme of the elections in their concerned institutions.

18. It is submitted that it was highlighted and directed that the names of the returned candidates for the posts of University Representatives (UCRs) and Faculty Representatives (UFRs) in Form 'G' and Form 'F' respectively, duly elected by College/ Institutions were to be communicated by the quickest mode of communication after such elections not later than 3 days from the date of the elections i.e., latest by 10th August, 2012 by 4pm. It was further pointed out in bold that the name received after last date and time, will not be considered for the purpose at any stage of the election of the Executive Committee of the Goa University Students' Council.



19. It is submitted that similarly the last dates for the purpose of filing of the audited accounts of election expenses of the returned candidates were fixed as follows:-



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For the UCR Election: 14th August, 2012 by 4pm

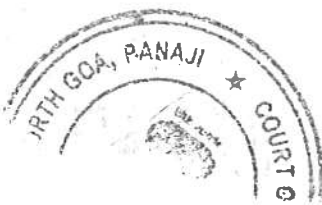
For the UFR Election: 21st August, 2012 by 4pm

For Executive Committee: 4th September, 2012 by 4pm.

20. It is submitted that accordingly in terms of the Notification dated 10.07.2012, all the milestones as set out for the purpose of election of the UCRs and UFRs were strictly followed by the Defendant No. 2.

21. It is submitted that accordingly the Defendant No. 2 accepted lists of names of the returned candidates for the posts of University Representatives (UCRs) and Faculty Representatives (UFRs) in Form 'G' and Form 'F' respectively, between 07.08.2012' and 10.08.12 upto 4pm.

22. It is submitted that the Defendant No. 2 accordingly on 10.08.2012 at 5.15 pm issued a Notification bearing No. GU/DSW/GUSC/Elections/2012-12/UFR-list eligible for the Executive Committee of the Goa University Students' Council Elections (2012-13) on the website of the Defendant No. 1, viz., www.unigoa.ac.in, wherein names of 51 eligible UFRs was depicted, whereas



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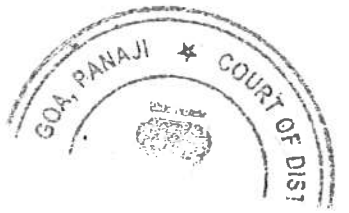
names of 10 UFRs was depicted as ineligible/
disqualified for the Executive Committee elections.

23. It is submitted that in accordance with the Notification issued on 10.07.2012, the Defendant No. 2 accepted nominations for election to the posts in the Executive Committee of the Goa University Students' Council till 4pm on 13th August, 2012.

24. It is submitted that the Plaintiff on 13.08.2012 at 3.25pm filed his nomination to the post of "member" of the Executive Committee of the Goa University Students' Council.

25. It is submitted that as such in terms of the Notification dated 10.07.2012, the next logical milestone was "Scrutiny", which was to be held on Tuesday, 14th August, 2012, between 3pm to 5pm.

26. However, it is submitted that the Defendant No. 2, did not hold any such scrutiny of the nominations filed on 13.08.2012 in complete and flagrant violation of the Statute enacted for the purpose of formation of the Students' Council of the Goa University.



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27. It is submitted that to the further surprise and astonishment of the Plaintiff, the Defendant No. 2, in further violation of the law on election/ formation of Executive Committee, the Students' Council of the Goa University, on 16.08.2012 published on the website of the Defendant No. 1, an announcement of the Revised Programme for the Election to the Executive Committee of Goa University Students' Council for the academic year 2012-13 which is illegal, void and capricious.

28. It is further submitted that the Defendant No. 2 under the pretext of having received credible complaints in further illegal act and high-handedness, disqualified (2) persons namely, Reuben Francis Fernandes of Pharmacy College, Ponda and Nigel Shawn Dias of G.M.C., Bambolim, which persons had been in the eligible candidates list that was published on 10.08.2012, which was most shocking.

29. It is submitted that the role of the Defendant No. 2 for the purpose of formation of the Goa University Students' Council, is transcribed in the Statute relating



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Superintendent

to the formation of the Students' Council of the Goa University (Schedule SSA-7). It is submitted that functions and duties of the Defendant No. 2 having being unambiguously and categorically, defined and enumerated in the said statute, the Defendant No. 2 could not have acted de hors the scope of the powers defined and enumerated in the said statute. It is submitted that the Defendant No. 2 possesses no such powers to revise any such schedule once notified. It is submitted that the Defendant No. 2 having issued

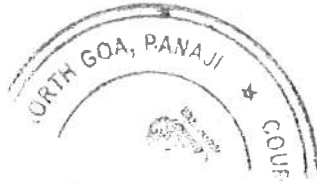
Notification bearing No.

GU/DSW/GUSC/Election/2012-13 on 10.07.2012

enumerating the Schedule for Election of UCRs, UFRs, and Executive Committee of the Goa University Students' Council as contemplated in terms of the said statute, became *functus officio* and could not have thereafter revised/ postponed the schedule of election of the Executive Committee of the Goa University Students' Council.

30. It is stated that on 16.08.2012, the Defendant No. 2 acting de hors the scope of powers conferred upon him in term of the Statute, highhandedly and illegally

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revised the schedule of election that had already been notified in terms of the Statute.

31. The Plaintiff states that it is apparent that the Defendant No. 2 with *mala fide* intention seeks to stall the election process in order to defeat the very purpose for which the Plaintiff had filed his nominations i.e., for the elections to the post of "member" of the Executive Committee of the Goa University Students' Council.

32. It is further the apprehension of the Plaintiff that the entire gambit of the Defendant No. 2 is to reverse the entire election process thus the Plaintiff is under an imminent danger of sustaining injury to the detriment of its rights and interest having been successfully returned as a UFR and also being an eligible candidate to the contest for the post of "member" of the Executive Committee of the Goa University Students' Council. It is submitted that the apprehensions of the Plaintiff were further fortified when the Defendant No. 2 disqualified without any hearing, further two candidates who had otherwise been shown by him as



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Superintendent

eligible for election to the Executive Committee on 10.08.2012.

33. The Plaintiff further states that the interference with the Plaintiff's rights for contesting at the election to the Executive Committee by the Defendant No. 2 is undisputed and is clearly established from the aforementioned facts and hence it is imperative in the ends of justice that the Defendant No. 2 be restrained by way of a Injunction, from acting in furtherance of the Revised Programme for Elections to the Executive Committee dated 16.08.2012, by in any manner reversing the elections or postponing the elections otherwise scheduled to be held on 21.08.2012. The Plaintiff is also entitled to an Injunction, restraining the Defendants from preventing holding of the Elections to the Executive Committee scheduled to be held on 21.08.2012.

34. It is submitted that if pending the final disposal of this suit, the Defendants are not enjoined in this behalf in light of the aforementioned facts, irreparable loss and severe injury will be caused to the Plaintiff that cannot be compensated in terms of money. It is



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therefore submitted that the Plaintiff are entitled to an order of injunction restraining the Defendants from interfering with date of election as scheduled to be held on 21.08.2012.

35. The Plaintiff states that an injunction is required in order to protect their right, ~~title~~ ^{to contest} and interest in the ~~suit~~ ^{election} and to avoid multiplicity of proceedings. The plaintiff further states that, if the Injunction is granted, no harm or injury will effect the Defendants; however, if the injunction is not granted, then grave and irreparable harm, injury and damage will be caused to the rights of the Plaintiff.

36. The Plaintiff states that the Plaintiff has been successfully returned as a UFR and is also in the eligible list dated 10.08.2012 as also 16.08.2012 and as such the balance of convenience is in their favour and therefore the prayers in this plaint should be granted.

37. The Plaintiff states that the cause of action for filing the present suit arose on 14.08.2011, when the Defendant No. 2 did not carry out the scrutiny and further on 16.08.2012 when the Defendant No. 2



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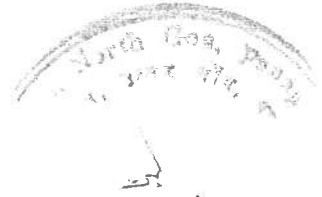
issued a revised election schedule, unilaterally and without affording any hearing to the Plaintiff. Hence the present suit is within the prescribed period of limitation.

38. The Plaintiff states that the Defendant No. 1, is situated at Taleigao, Tiswadi, Goa; therefore this Hon'ble Court has jurisdiction to try and entertain and dispose off the present suit.

39. The Plaintiff states that the Injunction is valued at Rs. 100/- (Rupees One Hundred only); and the Mandatory Injunction is valued at Rs. 100/- (Rupees One Hundred only), and accordingly, the Court Fee of Rs. 200/- (Rupees Two Hundred only) has been paid herewith.

40. The Plaintiff states that the Defendants have not filed any Caveat Application before this Hon'ble Court, ^{OR} ~~has~~ the Plaintiff received any caveat notice.

41. The Plaintiff states that they have not filed any other suit or legal proceedings in any other Court in respect of the matter in dispute in this Hon'ble court.



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42. The plaintiff will rely on a set of documents; a list whereof is annexed herewith.

PRAYER

The Plaintiff herein therefore pray that:

- a. For a declaration that the notification dated 16.08.2012 issued by the Defendant No. 2 is null and void being de hors the scope and ambit of the Statute relating to the formation of the Students' Council of the Goa University;
- b. For a Permanent Injunction restraining the Defendant No. 2, his servants/ agents / representatives from acting in pursuance of the notification dated 16.08.2012;
- c. For a Permanent Injunction restraining the Defendant No. 2, his servants/ agents / representatives from reversing or revising or nullifying elections held on 30.07.2012;
- d. For a Permanent Injunction restraining the Defendant No. 2, his servants/ agents / representatives from reversing or revising or nullifying elections held on 07.08.2012;
- e. For a Permanent Injunction restraining the Defendant No. 2, his servants/ agents /



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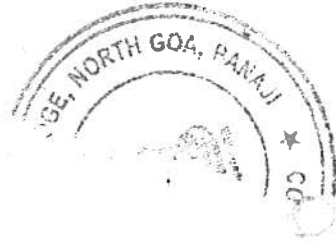
Superintendent

representatives from prohibiting the entry of the Plaintiff at Arts Faculty, Seminar Hall;

- f. Pending the hearing and final disposal of the instant suit proceedings, Defendant No. 2/ his agents/ any person acting or purporting to act on his behalf be restrained by an order of interim injunction from acting in pursuance of the notification dated 16.08.2012.
- g. For an ex parte ad interim relief in terms of prayer clause (c), (d), (e) and (f);
- h. Such other and further Orders as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the case;

For which act of kindness these Applicants shall forever pray.

Panaji - Goa
18.08.2012




(Nikhil Bhingarde)
PLAINTIFF

VERIFICATION

I, Nikhil Bhingarde, son of Sanjay Bhingarde, aged 21 years, resident of Ponda, Goa, do hereby verify that the contents of





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paras 1 to 42 are paragraphs true to my knowledge and belief and the paragraphs 27 and 29 are legal submissions which I believe to be true.

Solemnly affirmed at Panaji, Goa,
on this 18th day of August, 2012

Identified by me :

(Advocate for Plaintiff)

AFFIDAVIT

I, Nikhil Bhingarde, son of Sanjay Bhingarde, aged 21 years, resident of Ponda, Goa, the Plaintiff herein do hereby state on solemn oath:

1. That I have read and understood the contents of the suit plaint and that the same are as per my say.
2. That the contents of paras 1 to 42 are paragraphs true to my knowledge and belief and the paragraphs 27 and 29 are legal submissions which I believe to be true.
3. That the foregoing paragraphs 1 to 2 are true and correct.




Plaintiff



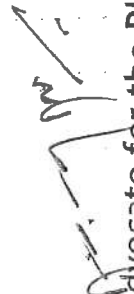
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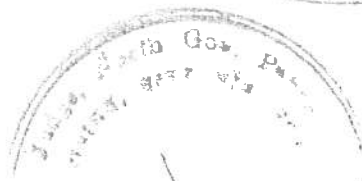
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Solemnly affirmed on this 18th day of August, 2012 at Panaji,
Goa.


Deponent

Identified by me:


(Advocate for the Plaintiff)



Solemnly affirmed before me by Smt. Nisha Sanjay Bhingarde who is identified by adv. R.O. whom I know personally. Panaji.



Rang 18/8/2012
SUPERINTENDENT
District & Sessions Court
Panaji

Ad-hoc 50-1071 Panaji

Made over to the Court of Sessions

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Panaji
District
Date: 11/10/2012

ORDER
Issue s/c to the dependants to appear and answer the claim and to file w/p their defence if any within 30 days from the date of service of s/c on them s/c 30/11/2013 at 10.00.

Vandana
21/12/2013
Adhoc D.J. Panaji

Panaji

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on instructions of my client -
I Adv. Prayulla Kavayee
withdrawing the suit
on this 12th day of June 2013

Prayulla Kavayee
12/6/2013

The suit is dismissed as
withdrawn

12/7/2013
Advoc. D. J. L. Pereira

checked with record
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APPLICATION No. 354
CERTIFIED COPY (for Records purpose)

Date on which copy applied for 12/7/2013
Date on which application completed 12/7/2013
Date given for taking delivery 22/7/2013
Date on which copy was ready 22/7/2013
Date on which copy was delivered 23/7/2013
Copying and comparing fees etc. Rs. 96/-

are paid in Nazir Section of this Court

under Receipt No. 218976 12/7/2013 & 211024 dt. 23/7/13

Prayulla Kavayee
Appellant

District & Sessions Court
Panaji

