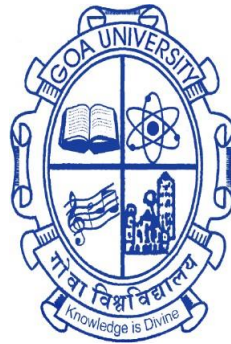


Party Politics in Goa: Analysis of Institutional and Social Dimensions

A Thesis submitted in partial fulfillment for the Degree of
DOCTOR OF PHILOSOPHY

In the D.D. Kosambi School of Social Sciences and Behavioural
Studies

Goa University



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December 2022

DECLARATION

I, Balaji Sudas Shenvy hereby declare that this thesis represents work which has been carried out by me and that it has not been submitted, either in part or full, to any other University or Institution for the award of any research degree.

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Date: 30-12-2022

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CERTIFICATE

I hereby certify that the work was carried out under my supervision and may be placed for evaluation.

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Abbreviations

- BJP- Bharatiya Janata Party
BBGP – Bahusaheb Bandodkar Gomantak Paksha
CDF – Congress Democratic Front
GPP – Goa People’s Party
GRC – Goa Rajiv Congress
GLP – Gomant Lok Pox
GDA – Goa Democratic Alliance
INC – Indian National Congress
MGP- Maharashtrawadi Gomantak Paksh
MLA – Member of Legislative Assembly
PDF – Progressive Democratic Alliance
RSS – Rastriya Swayamsevak Sangh
SGF – Save Goa Front
UGP- United Goans Party
UG (F) - United Goans (Furtado) Group
UG (N) - United Goans (Naik) Group
UG (S) – United Goans (Sequeira) Group
UGDP – United Goans Democratic Party

CHAPTER ONE

INTRODUCTION

The pragmatic study of party politics necessitates an examination of all facets of the organizational processes. It is because politics has an impact on every part of our life. Political parties have the ability to rally people, formulate policies, nominate candidates for office, resolve disputes, and guarantee that policies are implemented properly, among other things. Considering this as the core theme of this chapter an attempt is made to introduce the concept of Party Politics.

1.1 Introduction

Modern democratic nations have created a system of political parties as an inseparable factor in its process. The core reason behind this is that the representative system lays stress on the political participation of the maximum number of people either for the sake of demonstrating their faith in the myths that ‘the voice of the people is the voice of god’, or to justify the very legitimacy of their leadership and authority.(Johari, 2009) Political parties function as the motive force in developing public opinion, and as the combining agency which makes democracy workable. They are essential links between the people and the representative form of government. They are the means through which individual and groups work to secure political power and if successful, to exercise that power. They make people politically aware. This role cannot be performed simply by voting, but must be continuous one if government is to be kept responsive to public interest.(Kapur, 2014) Therefore *“political parties are considered by many as intermediate organizations between the citizen and the state. They are regarded as having an important place in democracy, carrying the weight of expectation and aspiration upwards from citizens to state, and the burden of policy downwards, from state to citizen.”*(Sridharan & deSouza, 2006)

Political parties come into existence owing to various conditions. There may be political issues dividing the people and thus various political parties may be formed to further their individual perspectives. Various research scholars and political scientists have given definitions of political parties. (Johari, 2009) According to Michael Curtis, it is notoriously difficult to define accurately a political party. Raymond Gettell

defines a political party as *“a group of citizens, more or less organized, who act as a political unit and who by the use of their voting power aim to control the government and carry out their general policy.”* According to Gilchrist, a political party *“is an organized group of citizens who profess to share the same political views and by acting as a political unit tries to control the government.”* MacIver defines a political party as *“an association organized in support of some principle of policy which by constitutional means it endeavours to make the determinant of government.”*(Mahajan, 2013) The main focus of all these definitions highlights the issues of ‘principles’ of public importance on which members of a party are agreed. Reiterating the same view, Disraeli defined political party as *“a group of men banded together to pursue certain principles.”* So, according to Benjamin Constant, a party is, *“a group of men professing the same political doctrine.”* (Johari, 2009)

A party is just a platform or apparatus that participates in the power struggle; it is a mechanism for capturing votes; an agency for mobilising majority support from the public during elections; and an instrument for the aggregation of interests that need fierce expression. *“We define a political party as an articulate organisation of society's active political agents, those concerned with the issues at hand. Every political party roots from two ultimate characteristics of human nature. The first being that men are expressive by nature even if there exists a difference in opinions. For a peaceful co-existence in the society, they must adjust the differences that they have with each other and agree on fundamentals for common good. Secondly, they bond with people holding similar views to put forward those views in an organized manner and to support the principles or the policies that they jointly favour.”* MacIver says that without the existence of political parties, *“there can be no unified statement of principle, no orderly evolution of policy, no regular resort to the constitutional device”*. Every political party has its origins in two fundamental human qualities). The first is that males are communicative by nature, even when their viewpoints disagree. They must adapt their differences with one another and agree on basics for the common good coexist peacefully in society. Second, they form bonds with individuals who share similar viewpoints to organise those viewpoints and support the values or policies that they both favour. Without political parties, MacIver claims, *“there can be no cohesive statement of principle, no orderly growth of policy, and no frequent recourse to the constitutional device of parity.”*(Elkin and Soltan, 1993)

1.2 New Approaches to study Party Politics

The dictionary meaning of Party Politics is that, “*politics that relate to political parties rather than to the good of general public.*” The subject of party politics came to be examined in the perspectives of the rise and fall of parties. A political party is an organization containing a group of people who serve people. Each party has its own set of beliefs and ideologies. These parties often align their interests to that of people they represent and whose support they need to win the elections. After winning, they form the government and manage the legislative and executive bodies of the government.

In recent years, there has been a lot of back-and-forth movement between these political parties. The parties conduct politics in order to further their own interests rather than the common good. This type of approach is frequently used to promote the objectives of a single political party. The pragmatic study of party politics necessitates an examination of all facets of these organisations’ operations. It's because politics has an impact on every part of our life. Political parties have the ability to rally people, formulate policies, nominate candidates for offices, resolve disputes, and guarantee that policies are implemented properly, among other things.

This theory of development, often known as the Modernization theory, is concerned with the continual changes that occur in the operation of political parties. The fundamental focus of this method is on systemic crisis, which includes topics such as nation-building, industrialization, and mass mobilisation, as well as systemic needs and functions such as conflict management, authority legitimization, and political-economic integration. However, there is a flaw in this idea. All of the top political commentators have chosen a standard vision of development that is incomprehensible to pupils. Cleavage theory was put forward by writers like Lipset and Rokkan. The focus of their research was mainly on the European political party system. They determined four basic cleavages that exist in society, Centre versus periphery, State versus church, Owner versus worker, and Land versus industry. Cleavages cause the break-up of society into different social norms. It involves the study of these divisions and their impact on politics.

Realignment theory was proposed by eminent scholars like James L. Sundquist and Walter Dean Burnham. This theory involves the study of sharp changes in the behavior of voting groups, levels of political participation, and power distribution

within the political parties. Spatial theory, by Giovanni Sartori, focuses on issue divisions approaching them in terms of economic assumptions and techniques of analysis. Permeation theory was developed to study the role of numerous cliques which are a group of close-knit people within a party that do not readily allow others to join them. Permeation theory was created to investigate the role of various cliques, which are a group of close-knit members inside a political party who do not readily allow others to join them, or in other words, a political party's inner circle, or elites. Maurice Duverger and Hans Daalder, two political scientists, founded it. They looked into the role of various factions in the political system, as well as the varying degrees of outcomes (Johari, 1982).

The study of political systems rather than governments resulted from the emphasis on the underlying political structure and process. This shift happened as a result of indigenous developments in political science. "When we speak of the political system, we include all the interaction or threat of legitimate physical coercion," said Almond, an eminent American political scientist. The political system encompasses all structures in their political aspects, not just governmental institutions like the legislature, courts, and administrative agencies. Traditional structures such as kinship ties, riots, and demonstrations, as well as formal organizations such as a government's political system is made up of a collection of traditional legal institutions. The link between such institutions and the political norms and laws that govern their operations is complicated. Political parties have become a fixture in our daily life. The parties are frequently taken for granted and are continually chastised. They are wrongly judged and frequently discussed. People are always passing judgment on the lives of the parties. As a result, political scientists, writers, and philosophers have been concerned with political parties. During the 1850s, political parties were only known in the United States, and no other country was aware of them. In modern representative democracies, parties are extremely important. Political parties are ubiquitous in today's globe, and democracy cannot function without them. Party politics, on the other hand, has become an indispensable component of the political system. Political parties are a broad topic that spans the full range of political philosophy and practice in both its past and contemporary manifestations. In recent years, this research has received a lot of traction. Because of the rising interest in this area, a new branch named "stasiology" arose. The scientific study of political parties is known as stasiology. The word "stasis" comes from the Greek word "stasis." (Johari, 1982)

1.3 Party Politics in India: Patterns, Trends and Reforms

Party Politics in India is an outcome of a historical process, not a foreign transplant. Speaking politically and historically, the Indian party system has its origins in the nationalist movement for freedom from colonial rule in British India, and incremental extension of franchise since the early twentieth century and introduction of universal adult franchise under the Constitution of independent India enforced since 1950. If democratization has been the primary causal or independent variable producing the party system we have got today, the Indian social structure with its regional and multicultural variations and the nature of the parliamentary-federal Constitution under which Indian democracy has operated for over seven decades now are the intervening or intermediating variables that have shaped the party system's patterns and trends. In other words, the primary effects of democratic mobilization on the party system have been funneled through the Indian political history and diverse cultural and social setting and the nature of the Indian Constitution. India's socio-cultural and regional diversities provide a fecund ground for a multiparty system, so does the federal component of the Indian Constitution. However, in the initial decades of post-Independence period the tendency towards multiplication of parties were held in check by the unifying force of the anti-colonial nationalist movement during the British Raj and the presence of the towering charismatic leaders of the nationalist movement at the national and state levels. The parliamentary component of the Constitution, as against its federal component, also exercised a centralizing influence and prompted parties to dualistically configure themselves into the government and the opposition. In a parliamentary-federal system like India's the effects of the two components of the Constitution are somewhat contradictory and cancel each other out. Adoption of plurality electoral system by India rather than proportional representation also tended to prompt political parties to configure into a two-party system as per the Duverger-Riker 'iron law' which stipulates that plurality system inevitably produces a two-party system - on account of this system of representation favoring larger parties at the cost of smaller ones and voters' psychology of tactical voting favoring parties more likely to win rather than those likely to lose. As a net result of these features, independent India began with a party system characterised as one-party dominance of the Indian National Congress, the party that emerged out of the Indian freedom

movement. Nevertheless, as India's social and regional diversities gradually got more and more articulated over the decades of electoral political mobilisation, the one-party Congress dominance gradually and reversibly yielded way to a multi-party system in the late 1960s and the late 1970s and irreversibly by the end of the 1980s. We proceed to delineate here seven phases of party system evolution in India:

- (i) The 'movement party system' (1920-1947) agitating for national independence when Mohandas K. Gandhi appeared on the scene and transformed the Indian National Congress (founded in 1885) from a pressure group into a mass movement;
- (ii) The 'Congress system' *a la* Rajni Kothari (1970: chap. 5; 1974) in independent India, which was the phase of democratic dominance of the Indian National Congress under Prime Minister Jawaharlal Nehru, when an internally democratic 'party of consensus' occupied the vast middle ground of the party system at the Centre as well as in almost all the states in interaction with numerous 'parties of pressure' on the margins in successive elections, playing the role of responsible opposition and influencing government policies from the left and right, nationalist and regionalist and communitarian margins;
- (iii) The phase of confrontation between the parliamentary wing of the Indian National Congress that came to be dominated by Prime Minister Indira Gandhi and the organizational wing led by the old guard leaders; the Indira Gandhi faction after the 1969 great split dispensed with intra-party democracy and took to authoritarian ways of dealing with the intra-party dissent and the opposition, and finally, collided with an extra-parliamentary mass movement of protest led by Jayprakash Narayan (JP) and ended up taking recourse to authoritarian internal national emergency under Article 352 of the Constitution entailing the arrest of the opposition party leaders as well as Congress dissidents and imposing press censorship (Singh, 1981);
- (iv) The 1977 general elections and return of democracy under the Janata Party government led by Prime Minister Morarji Desai and guided by its ideological grey eminence Jayprakash Narayan; this government, however, prematurely fell mid-term in 1979 due to factional feuds within it;
- (v) The restoration of the Congress under Indira Gandhi in 1980 followed by her elder son's succession after her assassination in 1984 and the growing dissociation

and differentiation of the national party system and state party systems during the decade;

- (vi) The deepening of the trend towards regionalized multiparty system with federal minority coalition governments followed in succession during the 1990s until 2014, when initially unstable governments – Janata Party-led National Front/United front - were subsequently followed by somewhat stable coalition governments led by Bharatiya Janata Party (BJP) and Indian National Congress (INC or Congress) – National Democratic Alliance (NDA) and United Progressive Alliance (UPA); however, even these relatively stable governments were bedeviled by blackmail of the leading party and the Prime Minister by coalition partners); these governments were - Janata Party/ Dal-led National Front/United Front government; Congress minority government led by P.V. Narsimha Rao; Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA) governments; and Congress-led United Progressive Alliance (UPA) governments;
- (vii) The rise of the BJP to the status of the majority party in the 2014 general elections for the first time after a long period of 30 years since 1984, and its re-election in 2019 with a larger majority, led on both the occasions by Narandra Modi. Despite its formidable national majority, the Hindu Right BJP has continued the tradition of federal coalition governments under the NDA with a grater predominance of the BJP and Prime Minister Modi within it than what was the case before 2014.

The federal temper and tenor of the party system has waxed and waned through the seven phases of party system evolution in India sketched out above. For example, the party system in the phase of Congress dominance (1952-1989) was highly marked by parliamentary centralism, with some tendency towards decentralisation in the late 1960s and the late 1970s. It became highly federalised and regionalised during the phase of federal coalition and minority governments during the phase of multiparty system (1989-2014). Since 2014 to date (July 2020) the system has tended to move to a middle ground between parliamentary centralism and federal regional decentralism under Prime Minister Modi, who heads a majority BJP government without dispensing with the coalitional NDA. The important point is that the federal content in the party system has never been entirely missing, thanks to India's socio-cultural and regional diversities as well as the formal constitutional recognition to the federal political structure under the Constitution Act of 1935 and the post-independence Constitution of 1950.

1.3.1 The changing Nature of role of Governor and the Speaker

Since British era, Indian Model of Federalism has evidently been deriving its power from a strong Union and a weak State system. The Centralist-Federalism indicates a heavy hand for the distribution of power between the Centre and States. The office of Governor has been treated as the core area of current federal structure. Instead of managing the Constitutionality, many Governors are performing some pro-political functions that are not supposed to be exercised without some exceptional justification. After a series of judicial verdicts and recommendation of different commissions, the issues such as abuse of article 356, dissolution of assembly, political appointments have been continuing without an end. For making the states more autonomous and self-driven, it would be the crucial task to restrict the extra territoriality of the governor in different matters, ranging from legislative interference to breakdown of existing political order. With a sense of optimism, the Indian Federal structure would be able to capture the strength of development and progress when the power exercisers will narrate the Constitutionalism rather than the parochial party-politics.

Similarly the office of Speaker of the Legislative Assembly is constantly under controversies with the Anti-defection Law in India. The behavior of the Speaker in most of the State assemblies have raised the question that whether the matter of disqualification petitions ought to be entrusted to a Speaker as quasi-judicial authority when the speaker himself belongs to particular Political parties. This raises the question of impartial behavior of the office of Speaker as there are several instances which indicate Speaker as an agent of pernicious partisan politics.

1.4 Literature on Party Politics

Political parties have been the leading agents in the political life of present India. To gather a perspective on political parties, one must understand the force and passion with which Indians participate in party politics. No other institution fascinates as much public interest and public displeasure as do the activities of political parties and their leaders. The importance of party politics is related to the fact that parties provide the organization for mobilization and participation and the symbols and ideologies for political identification and articulation. Historically, the importance of parties was connected to the vital role played by the Indian National Congress-led national movement in the life of Modern India. The contemporary significance of party politics

is linked to the success of Indian democracy. Both the achievements and shortcomings of democracy are ascribed to the party politics and the challenges posed by parties to democracy.

An attempt at surveying the literature on Party Politics in Goa is faced with a peculiar problem of delimiting the domain of the subject, therefore the best way out was to concentrate on those writings only that have their central theme related to politics and government of Goa. There has been a plethora of research on political Parties in the Political Science literature. Giovanni Sartori (1976) and Maurice Duverger (1954) are the two authorities on Political parties. Sartori in his book "*Parties and Party System: A Framework for Analysis*" unifies a vast amount of scattered empirical evidence on political parties. He has theoretically explained how different types of party systems perform very differently throughout the world. Duverger (1954) explained the typologies of political parties and their organizations and highlighted their role in the modern state in his book "*Political Parties Their Organization and Activity in The Modern State*". He suggested two types of political parties; cadre party and mass party. He even suggested four basic elements of party organization: Caucus, Branch, Cell and Militia. Duverger divided party system into the interior and exterior forms keeping in view the emergence and development of political parties in various countries of the world. Richard Gunther and Larry Diamond (2001) in an article "*Types and Functions of Parties*" in an edited book develop multiple criteria of typology of parties. They have divided political parties into fifteen types or species clustered into five broader genres- elite parties, mass-based parties, ethnicity-based parties, electoral parties and movement parties.

Alan Ware (1957) in his edited book "*Political Parties Electoral Change and Structural Response*" mentioned that the activities undertaken by the parties, the organizational used by them to take forward these activities, and the resources available to them vary considerably. This diversity has prompted several different strategies in the study of parties. Some scholars have argued that a genuinely comparative study of parties in different regime is not possible, because parties are always the product of a specific historical experience which is not replicated elsewhere. Others have rejected this view but have restricted comparative analyses to regimes with broadly similar political systems- such as liberal democracies or communist regimes. Another approach mentioned by Ware has been the area study- focusing on, parties in Western Europe or in Latin America. Finally, some have

advocated more all-encompassing studies to examine the features which all parties share.

The writing on the Party Politics in India showcases the dominant trend of their time. After the enlightening essay of Rajni Kothari (1964) on 'The Congress in India, a number of research work appeared focusing their attention on Congress Party. Prominent two important works in this section are Myron Weiner's Party Building in a New Nation: The Indian National Congress and Stanley Kochanek's The Congress Party of India: the Dynamics of One Party Dominance

To understand the basic facts and fundamentals of the Origin of political parties, the book titled "The first general elections in Goa" by G. S. Hallappa (1964) indeed is a resourceful book, wherein he has dealt with the formation of Maharashtrawadi Gomantak Party and United Goans Party before 1963 general elections. The book also gives the basic constitution of both the parties including their early manifesto which will be of great use for this study.

As the present study is on Political Parties in Goa, the literature is available in vernacular on Maharashtrawadi Gomantak Party (MGP) written by Waman Radhakrishnan (1995) "*Maharshtrawadi Gomasntak Paksha-Sthapana Aani Vaatchal*" which is more of factual analysis of MGP from 1963-1994. The *Cabinet Government in Goa 1963-1993 A chronicled analysis of 30 years of government and politics in Goa*" written by Aureliano Fernandes (1997) gives detailed analyses of the governments and their functioning in Goa. It gives a comprehensive account of the elections in Goa. It deals with the style of leadership, decision making and collective responsibility of the Chief Ministers in Goa. The time period covered by Fernandes is from 1963-1993. In an EPW article by Peter Ronald De Souza titled "*Pragmatic Politics in Goa*", gives a detailed picture of changes in Political institutions, trends in Party Organization and electoral landscape in Goa.(Desouza, 1999) Arthur Rubinoff (1998) in his book the "*Construction of a Political Community: Integration and Identity in Goa*" provides a detailed account of Post-colonial Goa. Biblical Dias (1991) "The office of Speaker" gives detail records of facts and interpretation of the role of speaker of the Goa Legislative assembly from 1963 to 1987.

Parag Porob's (2015) work titled, "India's First Democratic Revolution" focuses on the post- colonial question of Goa's exceptionalism in India's First Democratic Revolution, highlighting not only on its Portuguese past, but also focusing on various other influences that shaped modern Goa. Caste based land and power relations in the

post-colonial Goa is the focal point of this research work. Similarly, “Goa: Administration and Economy before and after 1962”- the work of former Chief Secretary of Goa J.C. Almeida (2013) who has witnessed the administration of Goa in the pre and post liberation era presents an overview of Goa’s Administration and political history of Goa in the post-colonial Goa.

From the above literature on political parties and party politics and with reference to Goa if one analyzes, one will find that political parties have evolved over the period and existing political parties periodically reinvent themselves and new parties characterized by new organizational forms and electoral strategies emerge.

As there is a limited reference material available on post-colonial Goa, for the research there is a need to update the earlier works in addition to that there is a need to understand Party Politics and Party system in Goa from a democratic political institutional perspective. There is a research gap which needs to fill in by analyzing the political parties, their role in Goan polity and various factors affecting the party politics in Goa. There is a need to find out how political parties are influencing the various policies in Goa. The present study is to understand various phases of party politics in Goa.

1.5 OBJECTIVES

The following are the objectives of the present study:

1. To figure out various phases of Party politics in Goa
2. To evaluate the partisan politics with special reference to the role of Speakers and Governor of Goa
3. To critically examine the various social dimensions that affect the role and functioning of political parties in Goa

1.5 SCOPE OF THE RESEARCH

The present study on Party Politics in Goa will explain about the various phases of party politics in Goa 1963-2012; wherein the major focus is highlighted on the post statehood political developments in Goa. The role of Speaker with special reference to the Anti-defection Law is also highlighted in the present study with the help of instances of defections and the decisions given by the Speaker of Goa Legislative Assembly. The role

and functioning of the office of Speaker has created lot of debatable issues in Goan polity and has questioned the adjudicatory powers of the Speaker. The present study also revolves around the changing nature of functioning of the Governor in context of emerging party politics in India with special reference to Goa.

1.7 HYPOTHESIS

The present study seeks to verify the following hypotheses:

1. Political Parties in Goa as institutions often distort other democratic political institutions by making them inclined towards partisan politics.
2. Religion, Casteism, linguistic assertion and social hierarchy has substantially influenced party politics in Goa.

1.8 DESCRIPTION OF RESEARCH WORK

1.8.1 STATEMENT OF PROBLEM AND RESEARCH GAPS

With the liberation Goa from the Portuguese colonial yoke, the question of identity arose; wherein the highly organized Indian National Congress which was at Power at center which was seen as major contender for power did not offer any suitable solution to the question of identity before elections which proved enough grounds for the regional forces to organize together and form regional political parties. The major question is when there was a decline of the hegemony of Congress at the center; Congress party in Goa came to power. This research will provide an adequate answer to the question. It is a general phenomenon that Political Parties have misused constitutional positions to acquire power in post statehood Goa, but the rate of cases in Goa was more as compared to other parts of India. This present study focuses more on the post statehood period from 1989-2012 with the historical background of origin and development of Political Parties in Goa soon after the advent of Parliamentary Democracy in Goa. Soon after statehood, the numerical strength of the state Assembly increased and this also increased political problems. The post statehood Goan politics was dominated by coalition politics, defections, split into political parties, the formation of smaller political parties and gave rise to political instability. The period after 2005 was dominated by Congress and its allies and by BJP and its allies. The general elections of 2012 created a totally different picture in Goan Party System. BJP came to power with an absolute majority. The party System in

Goa is unique and has been discussed in brief in Yogendra Yadav's article titled "Party System and Electoral Politics in the Indian States, 1952-2002: from Hegemony to Convergence" in an edited book Indian Political parties edited by Peter Ronald de Souza and E. Sridharan.

During the coalition period from 1990-2005, the political parties on various occasions have misused the high constitutional positions of Governor who is the head of the State and the Speaker who is the presiding officer of the Legislative Assembly. Political Parties are one of the institutions in the Democracies.

This study analyzes how political parties as an institutions have dominated/affected the other democratic political institutions in Goa. The study also focuses on the various social cleavages that affect party politics in Goa, which are also the root cause of all the problems in Goa. The religion, caste and the language are the two dominating social cleavages in Goa, which are dominant since the liberation of Goa. The *Bahujan* politics and language politics have shaped/affected Goan politics to a great extent. In short, the study is about party politics and party system in Goa and the analyses of Political institutions and social cleavages.

1.8.2 RESEARCH METHODOLOGY

To understand the party politics and party system in Goa, the method of study is mainly Historical Approach because it focuses mainly upon the past events as well as on the sequence of selected events in Pre and Post statehood Goa. As the research is on Political parties and as it discusses the role of Speaker and the Governor, the institutional Approach is been adopted. The data used in the study is from both primary and secondary sources. The primary sources of the data include party documents, legislative assembly debates etc. The newspapers and the articles published in the newspapers from 1961 till date are the main references for the study. Besides, the secondary sources of the data mainly include books, journals and newspaper clippings available in some of the leading libraries of India.

1.8.3 CHAPTERIZATION

CHAPTER ONE: INTRODUCTION TO THE PARTY POLITICS

With basic objective to understand the concept of Political Parties and various theories related to the development of the concept of the institution of Political parties. The first chapter highlights the origin and development of political parties and briefly discusses the theories that are relevant for the present study.

The pragmatic study of party politics necessitates an examination of all facets of these organisations' operations. It's because politics has an impact on every part of our life. Political parties have the ability to rally people, formulate policies, nominate candidates for office, resolve disputes, and guarantee that policies are implemented properly, among other things.

This theory of development, often known as the Modernization theory, is concerned with the continual changes that occur in the operation of political parties. The fundamental focus of this method is on systemic crisis, which includes topics such as nation-building, industrialization, and mass mobilisation, as well as systemic needs and functions such as conflict management, authority legitimization, and political-economic integration. However, there is a flaw in this idea. All of the top political commentators have chosen a standard vision of development that is incomprehensible to pupils. Myron Weiner and Joseph la Palombara take development in terms of solving crises and meeting needs of the system. Cleavage theory was put forward by writers like Lipset and Rokkan. The focus of their research was mainly on the European political party system. They determined four basic cleavages that exist in society, Centre versus periphery, State versus church, Owner versus worker, and Land versus industry. Cleavages cause the break-up of society into different social norms. It involves the study of these divisions and their impact on politics.

Realignment theory was proposed by eminent scholars like James L. Sundquist and Walter Dean Burnham. This theory involves the study of sharp changes in the behavior of voting groups, levels of political participation, and power distribution within the political parties. Spatial theory, by Giovanni Sartori, focuses on issue divisions approaching them in terms of economic assumptions and techniques of analysis. Permeation theory was developed to study the role of numerous cliques which are a group of close-knit people

within a party that do not readily allow others to join them Permeation theory was created to investigate the role of various cliques, which are a group of close-knit members inside a political party who do not readily allow others to join them, or in other words, a political party's inner circle, or elites. Maurice Duverger and Daalder, two political scientists, founded it. They looked into the role of various factions in the political system, as well as the varying degrees of outcomes.

The study of political systems rather than governments resulted from the emphasis on the underlying political structure and process. This shift happened as a result of indigenous developments in political science. "When we speak of the political system, we include all the interaction or threat of legitimate physical coercion," said Almond, an eminent American political scientist. The political system encompasses all structures in their political aspects, not just governmental institutions like the legislature, courts, and administrative agencies. Traditional structures such as kinship ties, riots, and demonstrations, as well as formal organizations such as A government's political system is made up of a collection of traditional legal institutions. The link between such institutions and the political norms and laws that govern their operations is complicated. Political parties have become a fixture in our daily life. The parties are frequently taken for granted and are continually chastised. They are wrongly judged and frequently discussed. People are always passing judgement on the lives of the parties. As a result, political scientists, writers, and philosophers have been concerned with political parties. During the 1850s, political parties were only known in the United States, and no other country was aware of them. Instead of par, the evaluation phase had begun. In modern representative democracies, parties are extremely important. Political parties are ubiquitous in today's globe, and democracy cannot function without them. Party politics, on the other hand, has become an indispensable component of the political system. Political parties are a broad topic that spans the full range of political philosophy and practice in both its past and contemporary manifestations. In recent years, this research has received a lot of traction. Because of the rising interest in this area, a new branch named "stasiology" arose. Stasiology is the scientific study of political parties and the process by which a governing body remains static or self-perpetuating due to internal conflicts.

CHAPTER TWO: POLITICAL PARTIES IN GOA (1963-2012)

The second chapter titled 'Political Parties in Goa (1963-2012)' discusses the emergence of regional and national political parties in Goa. The democratic politics in the Post-colonial Goa has undergone drastic change and hardly much has been written on the history of Political parties in Goa. Therefore in this chapter the subject of Party Politics is examined in the perspectives of the rise and fall of parties through 'developmental approach'. This chapter mainly deals with the rise and fall of MGP-UGP the two regional political Parties vis-à-vis the emergence of INC-BJP the two National Political Parties with three major parameters- Party Organization, Leadership within the Party and Electoral performances of the Political Party.

With the advent of parliamentary democracy in Goa, soon after liberation of Goa gave rise to the two regional forces based on the question of Goa's identity and its future. One regional force was for merging Goa with Maharashtra which was led by the Maharastrawadi Gomantak Party (MGP) and opposing to this idea and to maintain separate identity of Goa the regional force led by the United Goans Party (Party) for the frontrunner for the power in the initial phase of Party Politics in Goa. The organization of these two political parties was considered as more autocratic and less democratic. They were considered as extensions of their leaders- Dayanand Bandodkar & Jack de Sequeira respectively. It was only a matter of time before antagonisms such as these among the various classes constituting the MGP and UGP began to surface, thereby destroying the support base enjoyed by these two political parties in the initial two decades after liberation. In 1980 general elections, the Congress Party which had till then struggled to secure hold in Goan politics became a platform for the dissatisfied MGP-UGP cadre. Congress, with its accommodative nature, organized itself with several leaders from various regional parties and their splinter groups. With several leaders and aspiring candidates for ministerial position and Chief Ministers position internal party contentions were observed during the 1980's decade. These contentions within Congress Party and aspiring leaders led to the formation of several splinter groups, split in the party and era of coalition politics witnessing rampant defections.

The spectacular rise of the Bharatiya Janata Party (BJP) is one of the major political developments in post 1990's Indian Politics and also Goa witnessed the rise of BJP in post 1990s political arena. BJP had very little space in Goa's political canvas in

early 1990's. The MGP and the Congress were the key political parties and their enormous collective footprints had trampled most corners of the small state of Goa. The only other political force of consequence at that time was the United Goans Democratic Party (UGDP), which was formed in 1983 and was popular within Goa's Catholic community. BJP contested 1984 General Assembly elections and slowly started mobilizing its base in Goa through RSS network in Goa which expanded rapidly. For years, since liberation of Goa MGP had the monopoly over the Hindu votes. In 1989 the nine year old BJP formed in 1980 had tasked its office bearers and senior leaders- Pramod Mahajan and Gopinath Munde to spread Party's organizational wings in Goa. BJP contested the General Assembly Elections as well as the Parliamentary Elections on 1989 in Goa. Subhash Velingkar had played a game of brinkmanship with the MGP in the 1989 elections and had failed. Velingkar realized that the MGP was losing its connection with its grassroots cadre several of whom were already part of RSS, so in a way, the BJP already had its tentacles into the regional political party, whose space it sought to occupy. BJP was successful in having an alliance with the MGP before the 1994 General Elections of the Goa Assembly wherein MGP decided to concede twelve seats to the BJP. The seats offered to the BJP were the ones that the MGP leaders believed their party would not perform electorally well in. BJP won four seats in the 1994 Assembly Elections which went to ten in 1999, 17 in 2002, 14 in 2007 and absolute majority of 21 in 2012 elections.

The rise of national political parties in the political sphere of Goa has engulfed the regional forces and the gradual movement from centrifugal to centripetal politics has begun. The high command in Delhi of these political parties is deciding the fate of Goa, its politics and administration. There are several other smaller political parties which arise only at the dawn of elections and disappear soon after elections like the United Goans Democratic Party, Goa Su-Raj Party, Save Goa Front and others. Aspiring leaders and their high aspirations have also led to the rampant defection cases which have been discussed in the subsequent chapter.

CHAPTER THREE: PARTY POLITICS: THE ROLE OF SPEAKER OF GOA LEGISLATIVE ASSEMBLY

The third chapter on Party Politics in Goa: The role of speaker of Goa Legislative Assembly examines the functioning of the role of the Speaker in context with the Anti-

Defection Act and misuse of the provisions of the act and the functioning of the speaker in deciding the defection petitions which were arbitrarily contrary to the ethical values of the Indian Constitution.

One of the malady of the Party Politics in Goa is the partisan behavior of speaker and the Governor came under lot of criticism during this period from 1989-2007. Under 57th Constitution amendment Act and 91st Constitutional amendment Act, Speaker of the legislative Assembly acquired enormous powers and authority in matters of disqualification of members elected to the House. Extensive misuse of power was observed during this period by the Speaker of the legislative assembly in deciding the disqualification petitions filed against defectors, in order to save a particular government to which the speaker belonged to, or to bring down a particular government. Similarly the constitutional position of Governor was also misused during this period in appointment of Chief Minister, in dismissing certain Governments, in imposing State Emergency (President's Rule) and suspension of assembly in order to encourage horse-trading.

In Goa between 1989-2012 we find a high incidence of defections- the highest in fact for any comparable period since liberation in 1961. A part of the reason for such behavior is the weakening of the system of penalties. And a part of this weakening stems from the functioning of the office of the Speaker with reference to the Act. A part of this functioning concerns the time factor - delays as much as hasty judgments undermine this Act. It is unfortunate that those entrusted with the sanctity of our democratic institution should have stooped so low to remain in office. The Office of the Speaker has considerably become both a stabilizing and stimulating force in our parliamentary Democracy; however, it has come in confrontation with certain burning problems in our political systems which have largely lowered the dignity and prestige of this high institution (Kashyap, 2007). This is probably owing to non-operation of the doctrine of impartiality attached with the office of the Speaker. A critical analysis of the functioning of Speaker of Goa Legislative Assembly and a brief review of the decisions taken by the Speaker in context of defection cases reveals some alarming trends regarding Speaker's office as an adjudicatory authority. The time taken by the Speaker to give verdict on a petition against defection; either a speaker has taken an inordinately long time or surprisingly short time to decide on a matter. And neither behavior satisfies the requirement of reasonable time between the filing of a petition and delivery of judgment. The appointment of Dr. Kashinath Jhalmi under Para 6 (i) to decide whether the

disqualification provisions of Anti-defection of the Speaker apply to Dr Barbosa on a petition filed by Luizinho Faleiro. In this case Dr. Kashinath Jhalmi took over nine months to give his decision, the life of the Barbosa Government, during which time he was Law minister in Barbosa cabinet. In other words he functioned as the adjudicatory mechanism stipulated in the Act and as a partisan member of a Cabinet for which he bore collective responsibility. He gave his decision only after the coalition Government that was formed between GPP Legislators and the MGP collapsed because of internal contradictions. Similarly Surendra Sirsat, during his tenure as Speaker received several disqualification petitions that he took varying length of time to decide them. Two of his decisions regarding disqualification of Bandekar-Chopdekar and Ravi Naik were reviewed and overturned by Simon D'Souza- Acting Speaker. The Third Speaker Sheikh Hassan, too disposed of petitions after an inordinately long period. He gave his verdict only after he received directions from the Court to expedite his decision. It took more than two and a half years from petition to verdict. The time factor is important because the Anti-defection Act is a part of the punitive system which is integral to every political system.

CHAPTER FOUR: PARTY POLITICS: THE CHANGING NATURE OF ROLE OF GOVERNOR OF GOA

The Third chapter on Party Politics: The changing nature of role of Governor; the role of the Governor has gained a controversial semblance due to two factors. first, the Governor is generally perceived as a political appointee and more often acts as an agent of the centre, promoting its interests. Thus the action of Governor in dissolving or not dissolving the assembly has been to benefit the party ruling at the centre vis-à-vis its state unit prospects. Secondly most of the Governors in the Post statehood era were retired politicians and therefore the tendency to have an interventionist approach is noticeable in their functioning. This chapter examines five episodes in the history of post-colonial Goa where the Governor has functioned as an agent of the party in power at the union. An attempt is made in this chapter to understand the functioning of the role of Governor and the controversies that revolved around the institution of Governor in context to the following three powers as envisaged upon him by the Constitution of India. Article 164- pertaining to the appointment and dismissal of the Government, Article 174 (2) (b) - regarding dissolution of Assembly and Article 356 recommendation for imposing

President's Rule in Goa. These three powers and functions of the Governor has been widely criticized in recent times and the case studies showcasing the politicization of the Institution of Governor by the dynamics of party Politics in Goa are discussed in this Chapter.

The office of Governor has been be misused and abused by the Political Parties in power at the Centre as an instrument for controlling State politics by exploiting its tenurial insecurity, party loyalty or through pandering his ambition. For instance in 1990, When the Barbosa Government was reduced to minority, Governor recommended the Central Government to keep the assembly under suspended animation thereby giving an opportunity to the political parties for horse trading and manipulating the numbers and forming an alternative Government accordingly Congress Democratic Front formed the Government by splitting MGP. In an another instance Governor S.C. Jamir who was veteran Congressman appointed by the UPA Government as Governor of Goa within few months of his appointment managed to dismiss the BJP led Coalition Government in February 2005. The actions of some of the Governors in the state politics of Goa have proved to be damaging the essential federal structure of India. In short, the negative image of the State Governors as above all 'an agent of the Centre' has proved difficult to erase in minds of the people.

CHAPTER FIVE: CONCLUSION

After evaluating the available literature on this area one may observe that party politics in Goa may be summarized in four phases. The first phase which may be termed as Bi-Polar confrontation phase of Party Politics, wherein the question of identity was the focal point of party politics wherein two regional political parties which were emerged on the eve of liberation of Goa from the colonial yoke were struggling for power wherein cast, Religion and language played a crucial rule in defining the Goan polity. The second phase from 1980-90 was the phase of Congress hegemony. During this phase there was a reluctant and gradual centripetal process of indigenization, towards the acceptance of the Goan identity, in terms of distinct political culture, and Konkani as language of masses. There was identification between party and caste interests. With the formation of Congress Government in 1980a new phase in Goan politics began with individual politicians actions being motivated principally by considerations of personal revenge of interests. The third phase of party politics was an era of confusion and confrontation

(1990-2002). This phase is identified with political defections, instability and misuse of power. There are two vicious maladies that has affected this phase of Party Politics in Goa; one a bad anti-defection law the plays even bigger havoc in smaller states. Two, the strong inclination of ruling political parties in smaller states to seek security and stability by aligning themselves with the parties in power at the union. The fourth phase is of stable coalition politics (2002-2012). During this phase, the coalition governments were stable but they were always on the hot seat as there was a constant threat to the government from the alliance partners to withdraw support if their aspirations of the parties are not fulfilled.

The curse of defection started in our country in the year 1968. In Goa, it started even before. It took 18 years for the parliament to bring in legislation to outlaw defections, but in aid of internal democracy in political parties, split and merger was retained. It took another 18 years to plug the escape route of bulk defections through splits. The way governments collapsed and new governments are formed through the process of shifting loyalties, the casualty, is the will of the people and democracy itself. Democracy is getting reduced to mathematical numbers where the elected give no respect for the people and in the last three decades, citizens are taking this assault lying down.

1.9 LOCALE OF THE STUDY

This study is about post-colonial Goa's politics from 1963-2012 with major focus on Post-Statehood era. Goa, presently one of the richest coastal state in the Indian Union in terms of per capita income. Goa is also microcosm of the state in Indian Politics. If one wants to understand Indian politics, one can look at Goa's politics. It tells about how different political parties work. It also figures out how politics has become non-ideological across. It also tells you how cynical political leaders are and also suggests how cynical voters are. Goan politics have long been an arena of overnight desertion and defection. The act of Government formation and cabinet shuffle amid shifts in political allegiances in Goa serves as a reminder of the dark shadow of maneuver and intrigue that lurk within Indian democracy.

CHAPTER TWO

POLITICAL PARTIES IN GOA

(1963-2012)

2.1 Introduction

We cannot visualize democracy without political party in modern era. Political parties, originates as a result of the prevalent societal desires and conditions. It makes its existence by making plans, programs and agendas significant to the needs of the society. Political Parties are the mediators between the citizen and the state. They carry the weight of anticipations and ambitions upwards from citizen to state and the burden of policies downwards from state to citizens. In this process they perform multiple functions and develop multiple personalities (deSouza & Sridharan, 2006).

Goa was liberated from the colonial rule by the Indian Army on December 1961. With liberation of Goa along with Daman and Diu, parliamentary democracy was established in Goa. The people of Goa were new to the parliamentary democracy, though they had the experience of the elections which were not regular and they were conducted as a formality, it was rather manipulated elections during the Portuguese regime over Goa. There were municipal elections and parliamentary elections for the Portuguese parliament. The voting right was restricted to few, those literate who knew Portuguese language.

Politics and political parties in Goa have been undergoing a transformation since liberation of Goa 1961. The rise of political parties after the liberation, their participation in the first general elections, the struggle between them over the merger issues are some of the highly interesting highlights of political life in Goa during the initial period of Goa Politics. The attempts of *Maharashtrawadi Gomantak Paksha* (MGP) to merge Goa with Maharashtra on the basis of the elections results in 1963 produced a new phenomenon on the political horizon of Goa in which almost every citizen participated. The *Maharashtrawadi Gomantak Paksh* (MGP) came to be formed in an inscrutable fashion. There were several factors initiating its conception. Through the history of the organization is not systematically recorded, it was not without a fertile socio-political background that it shot into prominence. It is the leaders who were responsible for whipping up a incredible enthusiasm and determination among the people to oppose merger at all costs which the

MGP was leaving no stone unturned to achieve it. The opinion poll was in a sense, the pinnacle of political leadership in Goa, the climax of agitated, political activity for three years during which the opposition matched its wits, its organizing ability and its spirit of self-reliance with the position of strength of the mergerites which was the result of their control over the administration, their resources, both local and from those across the border, and from the moral and physical support they received from various quarters particularly from some of the Congress leadership and other parties.(Esteves, 1986)

The struggle for getting recognition for the official language and the gradual movement from centrifugal to centripetal politics of the state led to the attainment of statehood in 1987 was the turning point in the annals of political history of the territory. The wave of coalition politics in rest of India was also followed in Goa. The politics thereafter 2002-2012 was gradually polarised between the two national political parties and their coalitions in Goa.

Considering the political history of Goa since 1961-2012, and for the understanding and analyzing the phases of party politics in Goa we may broadly classify the period into two main broad categories- the pre-statehood era and the post-statehood era. The pre-statehood era can be further sub-classified into two phases of party politics in Goa- the first phase of Bi-Polar confrontation (1963-1979) between the ruling Maharashtrawadi Goamantak Paksh (MGP) and the opposing United Goans Party (UGP). Here the two major parties had their policies and programmes, clearly different from each other on the basis of which they took part in the struggle for power. This classification is broadly based on the electoral performances of the political parties in the Goan politics.

The second phase of party politics in pre-statehood Goa was 1979-1989 where in national political party Indian National Congress which was trying to conquer power in Goa since liberation was able to come to power in 1980 and ruled for a decade without having major opposition from other political parties. But there were internal confrontations within the party organization. Congress tried to systematically absorb the political opposition during this decade long rule but faced internal tussle for power over leadership which further led to the internal disintegration. During this phase Congress leaders, for their own selfish gains, had polarized the society on communal and community lines. These factors affected the Goan party politics in post-statehood period.

The third phase of Party Politics in Goa and the first phase in the post-statehood era (1989-2002) was a period of fluid politics. With statehood the political participation of the people increased with the increase in the seats in legislature from 30 to 40. Politics in Goa undergone a radical change and some aspirants during this phase witnessed the blatantly unethical methods used to somehow contest elections- switching party loyalties, floating political outfits, sponsoring rivals to break votes, contesting as independents and adopting other modus operandi were the hallmarks of party politics during this phase. The interpersonal rivalries between the Congress leaders and the greed for power in pre-statehood era were the major factor for the fragmented politics in the post-statehood party politics in Goa. Goa also witnessed the debut of Bharatiya Janata Party (BJP) in the party politics of Goa. *“The period between 1989-2002 is marked by repeated defections of representatives that has resulted in splits in the legislature party, in the formation of rump parties, in several changes of Chief Minister and therefore, of government in one Assembly period, in the re-election of those who had defected, in partisan decisions by speakers, the adjudicatory authority charged with policing such behavior under the 52nd Amendment, and in rewards for these political nomads who were given cabinet berths in jumbo cabinets.”*(DeSouza, 2006).

The fourth phase is of stable coalition politics (2002-2012). Multi-party competitions emerged in Goa’s political sphere. Competition between two pre-poll alliances was the hallmark of electoral politics. Those aspiring candidates not getting party tickets were seen forming political parties on the eve of elections. There was decline in defection cases due to the introduction of 91st Constitutional Amendment Act, now instead of individual migrating from one political party to another, it was the mass migration of the legislators to the political party in power.

2.2 Origin of Political Parties in Goa

Participations in the electoral politics in the nineteenth Century led to the rise of intellectual and patriot like Francisco Luis Gomes who vociferously opposed to all forms of tyranny and exploitation of people and was clearly influenced by the liberalism.

Two political parties that had made their appearance in Goa towards the end of the nineteenth century, grown around two news magazines, the *A India Portuguesa* and *O Ultramar*, the first published from Margao, to begin with, and later from Orlim in Salcete,

and the second from Margao. The first was edited by Jose Inacio de Loyola, an aristocratic Kshatriya catholic, of Orlim, who headed the *Partido Indiano* (Indian Party) also known as the Popular Party, around whom gathered all the Goan intellectuals of the time, of the two dominant castes that were the Brahmins and the Kshatriyas among the Christians, like Roque Correia Afonso of Benaullim, Jacinto Barreto Mirand and Salvador da Costa Alvares of Margao. This was the party normally in opposition to Governments policies in several matters that were deemed anti- people. The second was edited by Constancio Roque da Costa, who headed the *Partido Ultramarino* (Overseas Party) monopolized by his lone Brahmin Christian family of Margao, which adopted a pro-government stance. Most of the time victory in elections was won by the former, with large popular support for its people oriented and patriotic policies which the Portuguese government resented.

Partido Indiano and *Partido Ultramarino*, that constituted the voice of the opposition and that of the establishment, respectively, and were the products of the contemporary Goan Bamon-Chardo (Brahmin-Kshatriya) casteist politics (Kamat, 1999). The newspapers *A India Portuguesa* and *O Ultramar* served as mouth pieces of these two parties. Critical columns, polemical pieces, essays in favour of the government, news from Goa-Portugal and abroad characterized the local press printed largely in the Portuguese language and owned and edited by Goans themselves. The corrupt maladministration of the colonial regime often came into some criticism, especially its economic crippling policies such as the Anglo Portuguese treaty of 1878(Kamat, 1999). During this period Goa produced eminent personalities in the field of politics. Constitutional reforms enabled Goans to become members of Parliament and other elected bodies. Goa produced some distinguished parliamentarians who represented their people and the best interests of their homeland. Goan intellectuals conscious of their heritage, their Indian tradition and history, looked upon their pride and they uttered their pledge against colonialism and their right for independence. (Menezes Rodrigues, 2000)

Although franchise was restricted only to the Catholics, but it was extended to the Hindus in 1910, Goans learnt the electoral process during the colonial era, but they were not based on democratic principles. In all these elections caste played a significant role and dominated the Goan polity right from the early days of electoral politics which is evident in post-colonial Goa. Bi-polar conflict between *Partido Indiano* and *Partido Ultramarino* in the nineteenth Century witnessed the Goan Bamon-Chardo (Brahmin-Kshatriya) casteist politics. All these events in the socio-political history of colonial Goa had deep rooted

impact on the post-Colonial Goan polity; hence understanding the colonial political history of Goa is an utmost importance for understanding and debating post-colonial Goa.

2.2.1 The Origin and Development of MGP in Goa

There is some confusion and controversy over who the founders were and when exactly *Maharashtrawadi Gomantak Paksh* was established. One of the founders P.P. Shirodkar, who had been President of National Congress (Goa), insisted that the MGP was established on 6th March 1963 at Mardol (Narayan & D'Cruz, 2011). Madhav Gadkari, the former editor of '*Gomantak*' daily and former editor of '*Loksatta*' writes in his book '*Satta ani Lekhani*' in 1962 MGP was set up in a very mysterious atmosphere. The formation of the party was a brain wave of the former member of the Parliament Janardhan Shinkre and his associates. Shinkre who became the Secretary of MGP met Dayanand Bandodkar in Mumbai and it was here that they apprised him of his idea of making a Party. While the Constitution of MGP reveals that, MGP was established on 13th March 1963 (Narayan & D'cruz, 2011). MGP was an amalgamation of three main groups: '*Maharashtrawadi Aghadi*' of Mapusa, the *Samyukta Maharashtrawadi Gomantak* and a faction of the National Congress (Goa). It was Shinkre who wrote to the then chief election Commissioner on 17th August 1963 asking that the party be granted recognition. The letter claimed that the party had the blessings of India's Defense minister Y.B.Chavan, and stressed the fact that MGP had been formed with the exclusive agenda of merging Goa with Maharashtra. It also stated that party would stand automatically dissolved after its objective was achieved. According to Y.D. Phadke, it is indisputable that political stalwarts from Maharashtra notably Y. B. Chavan, Socialist leader S.M. Joshi and Nath Pai, allied with Peter Alvares were instrumental in forming the MGP.(Narayan & D'cruz, 2011) Gajanan Raikar, a former MGP MLA admits that MGP was formed by the leaders from Maharashtra to pursue their agenda of merging Goa with Maharashtra. However the MGP was more than just a merger of organization. It was more the end result of a metamorphic process. The party had roots in the Azad Gomantak Dal formed by Vishwanath Lawande in Belgaum in 1954 with the support of Hindu Mahasabha and Jana Sangh, the annual Marathi literary conferences which invariably raised the demand for merger. The Gomantak Gayak Samaj, the Marathi Gayak Samaj and Gomantak Maratha

Samaj were the other groups who supported the demand. Synoptically MGP was an institutionalization of twin demands of merger and Marathi (Fernandes, 1997).

MGP formed the government and ruled Goa without any interruption for sixteen years. MGP won four general elections to Goa Daman and Diu Legislative Assembly. It gave two chief Ministers to the Union Territory. The candidates fielded by MGP during the first general election were not known by many, still managed to get elected by defeating the Congress which was systematically organized party and which was ruling at the center. An attempt has been made in the following segment to understand and examine the reasons for the emergence of MGP in Goa, reasons for its electoral victory and forming the government and ruling Goa for sixteen years.

The rise of political and social consciousness among the masses due to spread of education (incidentally initiated by MGP) created conditions different from those existing during Bandodkar's rule. Unfortunately Shashikala Kakodkar continued with her father's antiquated techniques in dealing with dissidence and mass agitations, oblivious of the changed circumstances. Three specific developments, during her tenure as Chief Minister, led to the collapse of her government in 1979. The first was her strained relations with bus owners lobby; the second was her uneasy relations with the press and the third was the Ramponkar agitation (Fernandes, 1997). Shashikala, given her better education would have been capable of a more sophisticated analysis of the political context and needs of her time. But despite her political grooming with Bandodkar, her personal qualities, and attempts to rise beyond the Bahujan samaj perceptions, kakodkar was unable to rise beyond the image of Bandodkar's daughter.

Since the demise of Bandodkar, MGP was not what it was. In 1977 people gave a slim opportunity to his daughter to run the Territory. It is a sad fact that she not only failed to make use of this opportunity but also failed to take note of the growing disenchantment among her own party workers with the performance of her Government. Instead of trying to correct the mistakes, the MGP leadership tried to deal with the dissenters within the party sternly. This resulted in the fall of the Government in April 1979. Even after that there was hardly any sincere move to democratize the party or win over those who were opposed not to the party's ideology but to the behavior of the leader. The consequence was clear for all to see. But what must have annoyed large number of Goans was the absolutely undemocratic and violent behavior of some MGP members, including a minister, in the

legislative Assembly and the then Chief Minister's implicit approval for the same. The process of disintegration of MGP began soon after Bandodkar's demise. Part organization was also facing lot of internal issues. Part workers and leaders were leaving the party and were joining either the Congress party or the Janata party. All these factors led to the decline of MGP in Goa at the end of 1970's thus facing defeat in the elections of 1980.

2.2.2 The Rise and fall of UGP in Goa

An Antithesis to the formation of *Maharashtrawadi Gomantak Paksha* (MGP) and to maintain the distinct identity of Goa and not to merge with Maharashtra, United Goans Party (UGP) was formed on 13th September 1963 by merging different smaller groups.¹ This party was formed after several meetings and talks with the amalgamation of the following parties moved by the same cause. The old revived Partido Indiano headed by Alvaro Loyola Furtado, The United Fronts of Goans of J.M. D'souza, Democratic party of Emerciano Dias and the Goencho Poksha started by Jack de Sequeira.²

The Party campaigned forcefully for a separate state of Goa within Indian Union with Konkani as its official language. All the groups shared the common goal of attaining statehood for Goa. The United Goans Party accused the *Gomantak Marathi Sahitya Sammelan* speakers of making rude and objectionable remarks that disturbed 'our harmony' and stated that the issue of merger should not be raised yet.³ The party was predominantly a catholic organization with some Hindu supporters who were disappointed with the stand taken by the Congress party. Their stance was: 'why should we join Maharashtra, a state with the highest rate of taxation in India? We have no ties with them.' They intended to fight the elections with the chief objective of Goa's attaining statehood within India on democratic lines. (Narayan & D'Cruz, 2011)

UGP even felt that purely literary platform was exploited by the politicians of Maharashtra to expound the ideology of merging Goa with Maharashtra. With a view to counteracting this move all those who stood for a separate state of Goa joined hands in forming the UGP (Halappa & Others, 1964). The initiative to form the UGP came largely from J.M. D'Souza, leader of the Goan National Union, which was functioning from outside Goa until Liberation, Jack De Sequeira founder President of *Goayencho Poksh* and Alvaro Loyola Furtado leader of *Partido Indiano*. The other groups that were represented

at this meeting were the United Fronts of Goans and the Democratic Party led by Melicio Fernandes and Joao de Costa Pereira respectively. It was at this meeting that the UGP was formed with the Founder president Alvaro Loyola Furtado invited Jack de Sequeira to Join UGP and subsequently asked him to lead the party⁴ primarily because of his organizational skills, but also because he had a dynamic personality with an ability to attract followers.(Narayan & D'Cruz, 2011).

United Goans Party had no elaborate bureaucratic apparatus for campaigning. Every worker was made to feel as important as others, as there were no marked hierarchical feelings. For instance; its President Jack De Sequeira was a very informed and cheerful man who went round like any ordinary worker in a jeep, canvassing for his party. In refreshing contrast to the others; it did not import outside talent. It made the fullest use of local talents. Its processions were easily the most impressive. Alone among the parties it organized motorcycle processions. Its cycle processions were the most impressive as mentioned by Teotonio Pereira.⁵ The United Goans perhaps the only political party which employed mostly local resources unlike other parties. It did not get a single leader from outside. There were of course sympathetic appease in statements and write-ups by Goans residing outside. Even in this respect it was not much when compared with other parties. The president of the party and its workers looked highly determined and believed beyond doubt that Congress meant nothing to the people of Goa. They categorically stated that the issue of a separate state of Goa was not religious at all, but was purely on economic one. The substantial victory of the United Goans Party at the poll was due to the dynamic personality of its president whose capacity for leadership found expression during the elections. His genius for attracting followers and ability for mobilization were responsible for the success of the party. He handled proficiently very situation that had developed within the party. For instance in early November 1963, Mericio Fernandes- the General Secretary of the party and Victor Teles- a member of the executive committee of United Goans Party were expelled from the party for their allegedly prejudicial activities. Mericio Fernandes later contested the Marmagao Parliamentary seat, and Teles opposed the President of the United Goans Party Jack Sequeira from the Panaji Assembly Constituency as independent candidates.

The UGP like, the Congress, had failed to attract a better following ever since the first general elections. The party was returned in 1967 with a membership of 12 in an Assembly of 30. A group of UGP legislators were dissatisfied with the very idea of

Opinion Poll which resulted in forming a splinter group of UGP (Furtado) Group under the leadership of Alvaro Loyola Furtado in 1967. It contested the post Opinion Poll elections of 1967 but was not able to secure single seat. The core UGP group consisted of Enio Pimento, Urminda Lima Leitao J.L.G Araujo broke away from the UGP under the leadership of Alvaro Loyola Furtado under the banner of United Goans Party (Furtado Group). This splinter group had sympathizers and supporters too but no organization to fight elections. It had no means to organize a campaign even in handful of constituencies where some of its leaders had followers and chances of winning.

A small group of UGP (Sequeira) group in the Assembly was also dissolved in 1977 and Jack de Sequeira who was the president of UGP decided to join the Janata Party. The remaining UGP legislators under Anant N. Naik who were known as UGP (Naik) group finally merged with Congress before the elections of 1980 which strengthened the Congress party in Goa. With this United Goans Party disappeared from the political field of Goa.

2.2.3 The Advent of INC in Goa

At the end of the late seventies, the party politics in Goa was undergoing tremendous changes; however, the general elections of 1980's witnessed a sea change in the political complexion of pre-statehood Goa. The Congress Party of Nehru which was highly organized in Goa at the time of the first general elections in 1963 failed miserably, did not contest the second general elections of 1967 and even failed to indulge into any pre-poll alliance with the regional forces in Goa. Testing its luck in 1972 general elections, the voters of Goa did not give chance to the Congress of Indira Gandhi which the entire country was supporting. The fragmentation of the regional forces which included the split in UGP and major chunk of its members joined either Congress party which its president and a group merged the party into Janata Party following the country wide Janata wave of Jayaprakash Narayan. Congress was able to secure a sizeable number of seats in 1977 general elections and made debut in Goa Assembly and with the split in MGP and its leaders joining Congress party made conditions favourable for Congress in Goa to win the elections of 1980. It was Congress (Urs) of Devaraj Urs and not Congress (I) of Indira Gandhi, which presented itself as a little more cohesive group under some competent bodies. The Congress (I) which came to power a center was a result of disgraceful display

of selfishness and greed for power and position. This was the time when politicians were ready to do anything to prove their loyalty towards the Prime Minister Indira Gandhi. "Seeing the 'promised land' the newly-elected Congress (U) MLAs en bloc joined the Congress (I)"(Esteves, 1986). It was this Congress (I) under the leadership of Pratapsing Rane formed the government in the Union Territory. The trend which the nation was witnessing that the Congress leaders were ready to buy and sell MLAs or allow themselves to be purchased in order to occupy positions of power and status or pull down the government or ready to disown their leaders was also witnessed with modifications by the people of Goa during this period from 1980-1989. One of the cabinet ministers Wilfred de Souza who was one of the leaders who was instrumental in the formation of Congress government in Goa was too anxious to become the Chief Minister of Goa. His actions were designed to weaken the authority of the Chief Minister and to force the hands of the central leadership to make him as the Chief Minister. This was also one of the reason for the rift between Wilfred de Souza and A.N. Naik who was also one of the leader of the Congress party and Minister for industries who too was aiming to occupy the position of Chief Minister of the Union Territory. In the mid of the tenure of the Rane led Government in 1983, Wilfred de Souza along with some of his sympathizers moved out of the party and formed Goa Congress Party as a splinter group which later formed as a political party and contested the elections of 1984. These splits in the Congress (I) did not bring down the government and Rane continued as Chief Minister. In the 1984 general elections all the political parties promised in their manifestoes to undertake identical programmes namely to work for achieving statehood, to provide status to Konkani language, to bring rapid economic development of Goa.

Meanwhile when all the legislators were joining Congress (I) in 1980s the MGP leader Shashikala Kakodkar too joined the Congress (I). It was on this background, on the eve of elections, with a decimated MGP and an all-powerful Congress in power, that social activists like Mathany Saldhana, Amrut Kansar, Sergio Carvalho, Christopher Fonseca, Raju Mangeshkar got together to form a regional outfit- the Gomant Lok Pokx (GLP). They even started a political periodical- the Goan Weekly. Though they could not succeed in electoral politics, the GLP remained a hope for regional politics till it died a natural death in the mid-90s.

The sixth assembly elections were held in December 1984, turned out to be historic by rejecting all the double defectors, except the whole lot which had gone back to Indira

Gandhi leaving Devaraj Urs. Except Harish Zantye, everyone who had joined the BBGP⁶ and the Goa Congress as well as those independents who joined Congress (I) in 1980s were all rejected by the Goan voters. Though the MGP rose from two to eight in this poll, the Congress once again established absolute majority with 18. Except Luizinho Faleiro, none of the remaining 27 Goa Congress candidates including de Souza could win the elections in the name of regional sentiments and anti-congress propaganda. Similar was the case with Shashikala Kakodkar who would not reach anywhere near her MGP rivals, despite her attempts to utilize the legacy of her father Bandodkars charisma.

Goa Congress party introduced a certain communal elements in Goan politics during this election. De Souza may have thought that he could play upon the narrow, parochial mentality of a section of Goan Christians and win the elections. But it actually produced the opposite result. The election results clearly showed that his approach to Goan politics could produce no worthwhile results in his favour because even in predominantly Christian constituencies in South Goa, his candidates could not influence the electorate. People of Goa rejected the groups and elements that one way or another were hoping to make grade by appealing to the religious and communal sentiments of the people. They elected an national political party that promised to give a government that would make a break with the past when principles were thrown in the air and promises forgotten almost the very next day of elections, and an opposition party that promised to disown its communalism and merger mania of the past and work for Goa and its people.

But polarization took place once again with subsequent historic language agitation taking place in 1986, which made Konkani the official language and grated statehood to Goa. The Goa Congress party got merged into the Congress while Taai's BBGP was conveniently brought back to MGP's fold. The official language agitation of 1986 probably witnessed the worst violence in Goa's post-colonial history (Fernandes, 2003). The agitation began with meetings, huge protest marches by Konkani protagonists and courting arrest by defying orders. The Marathi language protagonists organized counter meetings and marches. Destruction of public property worth 1.5 lakhs, stoppage of all vehicular traffic for a week in December 1986 and violence followed. A young man was accidentally killed in police firing and seven language activists were killed in communally related incident. Crowds also partially burnt the houses of two Congress Ministers from South Goa, who refused to support the cause of Konkani language. Aureliano Fernandes mentions that, "*comparative to other language agitations in Indian states in the 1950s and*

1960s, the one death, injuries and arrests witnessed in Goa were negligible. Seven other deaths which occurred were, in my perception, related to an old communal village feud and not directly related to the language agitation” (Fernandes, 2003). But this mass movement and violent agitation witnessed by the people of Goa will remain historic as it was of its first kind in the post-colonial history of Goa. The violence was causal to the Chief Minister’s rebellious non concessive outlook towards the official language status for Konkani. The Konkani activists posturing too were nonnegotiable. Though both Konkani and Marathi groups disliked the central government’s compromise language formula which suppressed contrariety and violence, they did not execute their threats to prolong the agitation. The Konkani activists detested equal status for Marathi & Konkani and considered it a betrayal of the Konkani cause by the Government. Meanwhile, Marathi supporters regretted the ‘second class’ status for Marathi, since they argued that Marathi was the mother tongue of all Goans and the Konkani was a dialect of Marathi. The Lieutenant Governor of the Union Territory of Goa Daman & Diu in his address to the legislative assembly on 23rd March 1987 mentions that, “*the language controversy has been amicably settled by passing the official language bill in the August House on 4th February 1987. This will pave the way for permanent communal harmony amongst the people of territory. My Government has initiated steps to implement the provisions of this bill.*” (Kothandaraman, 2002). The official language Act 1987, clearly states that Konkani is the sole official language of Goa, while allowing the use of Marathi for official purposes. Yet, it took an order from High Court accurately interpreting the Act to awaken Marathiwadis to the fact that it is Konkani that is the sole official language of Goa and that Marathi does not share its status. The division Bench of the Panaji Bench of Bombay High Court comprising of Justice R. K Bhatta and Justice R.M.S. Khandeparkar, held that use of Marathi for official purposes does not accord the status of Official Language to Marathi. This was in response to the petition filed by the *Marathi Rajya Bhasha Prasthapan Samithi* and Marathi Academy (Barbosa, 2000).

All the political parties used the agenda of language as a means to attain power in the territory but no political party was actually anxious to resolve this question of Konkani or Marathi as official language, because the political parties who were in power feared to lose the power and those who were struggling to gain power were afraid of not getting power. The Goa Congress had fought for Konkani with Roman script and the MGP had championed for Marathi, while the congress was internally divided on this issue and was

silently observing the situations. In reality the issue was moot as English was entrenched as the language of both education and administration. Typically, the Congress solution was a compromise that satisfied almost no one but the politicians and their political parties.

Giving the linguistic basis of reorganization of states in Indian Union, advocates of statehood for Goa pursued a strategy of attempting to have Konkani recognized as a national language. They believed that this action, which would enhance language development and expedite statehood. Consequent upon passing of Official Language Bill in 1987, the statehood issue acquired a new and curious momentum. Although the campaign for statehood began soon after Opinion Poll in 1967 and included resolutions by the Assembly in 1971, 1976, 1983 and 1986, Goa's enhanced status appeared to come about almost too suddenly. The reasons for the delay in achieving statehood were primarily historical and political. The 1948 draft constitution of India did not mention the Portuguese part existing in India. The status of Goa, Daman & Diu, after their physical incorporation into Indian Union, was defined by the Government of the Union of Territories Act of 1963, which was later amended to enhance the power of territories in the category of Goa. Although the powers of a union territory were basically the same as those of a state, there are several significant differences, particularly with regard to financial matters. A territories ability to borrow is constrained. In addition, a union territory has no personality in the courts. It acts in the name of Union government and is under the administration of the Home Ministry; its chief administrative officer is Lieutenant Governor while that of a state is a Governor, and at his behest or that of Parliament, the center's ability to intervene or delay is considerable. In addition to these administrative limitations, there were political disadvantages to being a union territory as opposed to a state. Goa's representative to the Rajya Sabha was chosen by nomination not by election in the Assembly. However, in terms of population, with two seats in the Lok Sabha, for just over a million people, Goa was over represented in the Lower house compared to the rest of the country. Despite its relative small numbers, Goa's population density exceeded that of tribal states of Nagaland, Meghalaya, Manipur and Tripura. In terms of legislative representation, states are normally required to have assemblies with 60 legislators. This factor militated against Goa- an area the size of most state districts- as thirty seats were adequate for its geographical representation. New Delhi now seemed anxious to resolve a number of outstanding issues concerning the Union Territories. After deciding to confer statehood to Arunachal Pradesh and Mizoram, there seemed little reason not to do the

same for Goa. According to the *Hindu* May 30, 1987, serious deliberation for granting statehood to Goa “coincided with the drubbing the Congress received in Kerala,” a result that left Goa as the party’s only government in the South. In a move characterized by unanimity, Parliament required two bills, including a constitutional Amendment, to achieve the results. The Reorganization Bill confirmed statehood to Goa and formed a new Union Territory of Daman & Diu, while the 57th Constitutional Amendment provided forty member Assembly and an expanded Council of Ministers for the new State. Goa remained under the jurisdiction of the Bombay High Court and Lieutenant Governor, Gopal Singh became the Governor.

The manner in which Goa attained statehood on May 30th, 1987 suggests that Indian politicians are not averse to reviving communal issues such as language in order to achieve selfish objectives (Rubinoff, 1992). With Statehood and Official language Act, major issues related to Goa’s identity were resolved.

2.2.4 The Emergence of BJP in Goa

The spectacular rise of the Bharatiya Janata Party (BJP) is one of the major political developments in post 1990’s Indian Politics. The Bharatiya Janata Party traces its origins to the Bharatiya Jana Sangh, originally set up by Syama Prasad Mookerjee in 1951 to take up the cause of Bengali Hindus in erstwhile East Pakistan. Jana Sangh only entered the electoral politics after it forged an alliance with several other political parties to form the Janata Government in 1977. This coalition broke up in 1980, and it was then that the BJP emerged in its present nomenclature. Presently the party has a pan-Indian presence with devoted base, not just within the country but also among the Indian diaspora worldwide (Nag, 2014). However, BJP’s rise in Indian politics and emergence in the state politics is a matter of study to understand the development and expansion of the party and its techniques of mass mobilization in order to gain electoral verdict to rule the State.

BJP had very little space in Goa’s political canvas in early 1990’s. The MGP and the Congress were the key political parties and their enormous collective footprints had trampled most corners of the small state of Goa. The only other political force of consequence at that time was the United Goans Democratic Party (UGDP), which was formed in 1983 and was popular within Goa’s Catholic community. BJP contested 1984 General Assembly elections and slowly started mobilizing its base in Goa through RSS

network in Goa which expanded rapidly. For years, since liberation of Goa MGP had the monopoly over the Hindu votes. Over 65 per cent of the State's estimated population of 15 lakh people is that of Hindus. It was among this section of the population that the RSS was working to make inroads in 1980's and 1990's (Gokhale, 2021). There were senior RSS leaders of Goa like Durganand Nadkarni and Subhash Velingkar who had worked hard to establish RSS foothold in Goa but it was young turks like Manohar Parrikar and Shripad Naik who gave a great fillip to the organisation's ambitions in the State. They propagated the RSS ideology and worked to create a wider network of workers. In the early days of BJP in Goa, RSS office bearers were told to stay away from politics personally but an unwritten understanding between the two organisations did exist. They worked together and often BJP was using RSS network to reach out to citizens since they had a larger presence. Right from the inception the BJP has derived its ideological principles from the RSS and it was not surprising in those days of the BJP to have RSS workers loaned to the party. The symbiotic relation continues till date. Before Goa was carved out as an independent region (prant) in the RSS organizational structure it was administered by the Sangh as a part of the Konkan prant (Patil & Nagvenkar, 2020). The BJP's relevance in Goa in 1990' was only limited to the propaganda created by the party's Ramjanmabhoomi campaign.

In 1989 the nine year old BJP formed in 1980 had tasked its office bearers and senior leaders- Pramod Mahajan and Gopinath Munde to spread party's organizational wings in Goa. BJP contested the General Assembly Elections as well as the Parliamentary Elections on 1989 in Goa. Subhash Velingkar had played a game of brinkmanship with the MGP in the 1989 elections and had failed. Velingkar realized that the MGP was losing its connection with its grassroots cadre several of whom were already part of RSS, so in a way, the BJP already had its tentacles into the regional political party, whose space it sought to occupy. BJP was successful in having an alliance with the MGP before the 1994 General Elections of the Goa Assembly wherein MGP decided to concede twelve seats to the BJP. The seats offered to the BJP were the ones that the MGP leaders believed their party would not perform electorally well in. BJP won four seats in the 1994 Assembly Elections which went to ten in 1999, 17 in 2002, 14 in 2007 and absolute majority of 21 in 2012 elections. In 2000 BJP, taking advantage of the infighting within the Congress Legislature party was able to engineer split in Congress and successfully formed the first BJP Government in Goa under the leadership of Manohar Parrikar. The success of BJP in Goa's politics was mainly based primarily upon the strategy of mass mobilization of the

people by its leaders; secondly due to the welfare measures adopted by the BJP Governments towards the weaker sections of the society; and thirdly due to the Charisma of the BJP leader Manohar Parrikar.

2.3 Party Organization and leadership

2.3.1 The Organizational functioning of MGP in Goa

MGP's plank was largely based on populism, and promising a better deal to the Hindus who are economically deprived and socially oppressed sections in Goa. It was initially associated with an idea of merging Goa with the neighboring state of Maharashtra, a policy it subsequently given up after the 1967 opinion poll, as the people at Goa voted against the merger. The party has also supported the use of the Marathi language; though some interpret its stand on language and merger as being partly a means of fighting caste issues and countering the domination of Goa by the traditional Hindu and Catholic elites.

Dayanand B. Bandodkar, a self-made man, philanthropist and mine owner was made the President of the MGP and he was the chief financier of the party was elevated as Chief Minister of Goa Daman and Diu. The leadership of MGP tried to project a certain image of the party in terms of Bhaujan Samaj (a virtual conglomeration of various social classes who were suppressed during colonial rule by the higher cast people) whose interests it claimed to represent. This image related to socio-economic dimensions as well by highlighting oppressed conditions of tenant, lack of education and economic poverty. With a view to projecting itself as the true representative of Bhaujan Samaj, MGP sought to characterize the congress as enjoying the support of landlords and Brahmins and the United Goans Party, was enjoying the support of Catholics.

Bandodkar's death in August 1973 was untimely. It came just when he was working a synthesis of his political strategies and contradictions towards Goa's development, to make it a model state. Soon after Bandodkar's death, his daughter Shashikala Kakodkar who had emerged as the second line leader within the MGP during the second Bandodkar Ministry to some extent, sidelining senior party men, became the chief Minister of the Union Territory. In 1980's after her defeat in the elections MGP leader Shashikala Kakodkar too joined the Congress (I), she too got totally sidelined by the local Congress (I) and she reacted to this by forming the Bhausahab Babandodkar

Gomantak Party (BBGP) along with seven MGP leaders who were elected in 1980's assembly and they were rejected by the MGP due to their political nomadism in 1980s.

Shashikala was suspended from MGP and was stopped from joining MGP. But later she was admitted in MGP in 1989 with the intervention of Sunandabai Bandodkar (widow of Dayanand Bandodkar). Ramakant Khalap became leader of MGP in Goa Assembly in 1980 and from just two seats under his charismatic leadership MGP won 18 seats in 1989 elections. As recorded by the Supreme Court of India in the cases Kashinath Jalmi v/s State of Goa and Ravi Naik V/s State of Goa at one time MGP had clear majority of 25 MLAs in the 40-member Assembly of Goa, however by blatant misuse of his powers, the then Governor of Goa did not make Ramakant Khalap Chief Minister of Goa. MGP extended its support to Churchill Alemao and Luis Proto Barbosa's Progressive Democratic Front (PDF) Government. Ramakant Khalap, who was the leader of MGP played a significant role during these governments from 27th March 1990- 13th December 1990. MGP was actually ruling the government at this time and was dominating Alemao and Barbosa's Governments. When Barbosa went against MGP's demands of portfolio allocations MGP withdrew their support and Barbosa's Government was collapsed in December 1990. The factors such as the emergence of Bharatiya Janata Party and Shivsena in Goa's Politics were responsible for the decline of MGP in Goa. The ideological similarities of MGP Shivsena and BJP led to their pre poll alliance in 1994 General Elections wherein MGP contested 25 seats, BJP contested 12 seats and Shivsena contested two seats. MGP got eight; BJP secured four and made its entry for the first time in Goa legislative Assembly while Congress formed the government with vast majority. But the political opportunism within Congress led to the change of governments. With the entry of BJP in Goa's Politics MGP lost its significance. In 2012, MGP was allies of BJP led government. MGP which was in power for sixteen years at one particular time has just been a party with three members in Goa Legislative Assembly. The following exhibit 1.2 explains us the decline of MGP in Goa.

During the first eighteen years after integration with independent India, MGP led the state government. However, the MGP is marginalized when compared to its earlier status. The Bharatiya Janata Party (BJP), particularly between 1999 and 2005, had taken over most of the Hindu voters, and a large chunk of the MGP party cadre. The BJP allied with the MGP in the elections of 1994, and made inroads into the party's vote-base, even though it won only four

seats in that election, and the MGP got 10. Over the years, the MGP, which is symbolized by a lion and has a saffron flag, has been further eroded by the emergent BJP.

Exhibit 2.1

MGP in Goa Legislative Assembly

| Year | Seats Contested | Seats Won | Total number of Votes Polled | Total Percentage of Votes polled in state |
|------|-----------------|-----------|------------------------------|---|
| 1963 | 27 | 14 | 100117 | 38.78% |
| 1967 | 26 | 16 | 111110 | 40.42% |
| 1972 | 23 | 18 | 116855 | 38.30% |
| 1977 | 29 | 15 | 116339 | 38.49% |
| 1980 | 30 | 07 | 127714 | 36.38% |
| 1984 | 26 | 08 | 86100 | 21.12% |
| 1989 | 32 | 18 | 195533 | 38.78% |
| 1994 | 25 | 12 | 128033 | 22.24% |
| 1999 | 31 | 04 | 81091 | 17.73% |
| 2002 | 25 | 02 | 45595 | 7.16% |
| 2007 | 26 | 02 | 61439 | 8.65% |
| 2012 | 07 | 03 | 57012 | 6.72% |

Source: *Key Highlights of General Elections to Goa Legislative Assembly from 1963-2012*; Published by Election Commission of India.

In 2012 General elections to the Goa Legislative assembly MGP made a pre-poll alliance with BJP and came to power with three legislators. The vote bank of MGP is decreasing day by day (see exhibit.3). But the party has changed its stand in many aspects. Some are of the opinion that the MGP in 1960's and 70's which was dominated by the Bahujan Samaj leaders but over the years the situation has changed and it has been

predominated by the upper caste Hindus. But there is belief that these leaders are working for the upliftment of the Bhaujan Samaj. The demise of Dayanand Babdodkar and fall of Shashikala Kakodkar marked with the fall of MGP party as a dominant party revealing the weakening of importance to MGP ideology i.e. the merger issue and language issue. In the 80's MGP seat share gradually declined, from seven seats in 1980's general elections to two in 2002, except in 1989 when it managed to get 18 seats in Goa's Assembly as seen in the exhibit 2.1.

2.3.2 The Organizational functioning of UGP in Goa

Though the UGP was a predominantly Christian organization yet it is not correct to say that only Christians of Goa stood for a separate state or there were no Hindus in the party but soon after its formation several Hindus were encouraged to join it. Actually its Secretary and few committee members were Hindus. It was thus clear that its leaders were anxious to make it a non-communal organization from the very beginning. For instance out of 24 candidates set up to contest the assembly seats, eight were Hindus and one was Muslim in the first general elections held in Goa. There were also Christians who had faith in ideologies of Congress Party and expected to declare categorically that the Congress would strive for the formation of separate state of Goa within Indian Union. They were naturally disappointed when the Congress party declared in its manifesto that it was not prepared to take up this issue at that moment and would stand for status quo. This stand of the Congress also perhaps gave fillip to the Christians and others who agreed to mobilise their strength and to fight the elections with the chief objective of attaining separate statehood for Goa within the Indian Union on democratic lines. (Halappa & Others, 1964)

The party had for its symbol 'The Open Human Hand and for its slogan "*Amchem Goem Amka Zai*". There developed a controversy around this symbol of the United Goans. It was pointed out that the symbol has the special religious appeal and significance to the Christians voters in Goa. It was remarked that symbol of the Hand carried the blessings of St. Francis Xavier. Christians of Goa have firm belief that the hand of St. Francis Xavier is guiding their destiny and is blessing them.⁷ This allegation was however denied by Jack de Sequeira in a statement as mischievous. He explained that the party had actually asked for "Palm Tree", but it was election commission that gave them their present Symbol.⁸

“The chief aim of United Goans was to work for the unity, peace and prosperity of the people of Goa, Daman and Diu and of the country on the basis of Democratic ideology and for the early attainment of statehood within the Indian Union.”⁹

United Goans Party started a newspaper Gomantak Kiran just before the elections to help it in its election campaigns. It also received a certain amount of support from two dailies; O Heraldo and A Vida. A party just formed two months prior to the First General elections went for campaign and managed to get 12 seats in the 1963 elections.

2.3.4 The Organizational functioning of BJP in Goa

One of the major reasons for the emergence and development of BJP in Goa is the increasing organizational base of the political party in Goa. The increasing base of the party's cadre was mainly due to the two factors- the Charisma of its leader Manohar Parrikar and the techniques of mass mobilization adopted by the BJP in Goa. After deciding to take the plunge into active politics, Manohar Parrikar decided to join BJP to contest and then began building and expanding the party's base in Goa. Along with Shripad Naik and Subhash Velingkar, he started Jansampark Abhiyan- a public relation campaign in the urban areas of Goa. He concentrated on prominent business families influenced Christian organisations and socially relevant institutions such as sports clubs and theatre groups(Gokhale, 2021). In spite of knowing the fact that it was not possible to win in the Parliamentary elections of 1989 Manohar Parrikar contested the elections from the North Goa. Nevertheless managed to poll far higher votes than previous candidates which convinced the senior leadership of the BJP that with proper plans and alliance building. After his defeat in the 1991 Lok Sabha elections in Goa Parrikar led the Ram janmabhoomi agitation in Goa on behalf on the BJP. The turmoil across the country after the Babri Masjid came down and the riots that followed in parts of the country did not singe Goa but the Ram janmabhoomi agitation had galvanized the BJP and created an environment amongst the voters. However, The BJP had realized that they need to piggyback on the MGP's vote bank to make any dent on the voters. With the help of senior national leaders of BJP- Pramod Mahajan and Gopinath Munde shrewdly aligned with the MGP in 1994 Assembly Elections in Goa.

It is important to contextualize the dynamics between Manohar Parrikar and his political peer Shripad Naik at this juncture. Though young, both were the senior-most BJP

leaders in Goa. Parrikar was the bustling IITian, his head brimming with ideas and innovations and a Brahmin by caste. Shripad Naik was a man of the earth with quiet relatively laidback personality who rose after spending years in Panchayat politics and Bhandari by caste which made him a part of the larger Bahujan Samaj grouping. But their collective commitment to BJP-RSS was unquestionable. One of the Characteristics of BJP's increasing vote bank was Parrikar's Charisma. Parrikar travelled across the State after joining BJP; he made sure that he knew everyone and the names of their family members by heart. That is why people loved him and came forward to get associated with him. The BJP grew to become an important party in the State because of Manohar Parrikar's style of functioning as the leader of BJP.

In 1994 BJP entered the legislative Assembly of Goa with four members- Shripad Naik Manohar Parrikar, Digambar Kamat and Narahari Haldankar. Shripad Naik and Manohar Parrikar made a good team while Naik took care of the organizational matters, Parrikar concentrated on exposing the Government's wrongdoing. Parrikar gathered all information and built a watertight case against the Government before launching an attack on the floor of the House. His passionate involvement in issues that affected the common citizens his meticulous approach in researching and understanding complex financial dealings of the Government and exposing the wrongdoings boldly made him popular among both the masses and the elite.

2.4. Electoral performances of the Political Parties in Post Statehood Goa- 1989-2012

In the General Assembly Elections of 1989 despite fresh faces, the Congress could not win more than 20 seats while the MGP shot up from 8 to 18, leaving two sets for rebel Congressman, elected as independents. Though Rane could form his government for the third consecutive term by making the independent MLA Carmo Pegado a minister in his five member cabinet, perhaps the new faces wanted much more, as the political culture had fully shifted its focus on selfish gain, within 75 days, the Rane government collapsed with seven Congressmen spitting to form Goa's People's Party (GPP) under Speaker Luis Proto Barbosa's leadership. Making full use of the loopholes in the newly legislated Anti-defection Act, the rebels formed coalition government called Progressive Democratic Front (PDF), giving representation to six of the GPP and the rest of the MGP in the first jumbo cabinet of Goa (Fernandes, 1997). But the 'progressive experiment' could last only

for 8 months, when Deputy Chief Minister Ramakant Khalap withdrew MGP's support while winning over three GPP MLAs to his side. But the 13-member Congress decided not to support any coalition though Barbosa claimed support of 24 including Congress. The confusion led to the year old Assembly coming under suspended animation and the imposition of the President's Rule in Goa. This indirectly permitted further horse-trading towards establishing a 'red majority' before the Governor. While Barbosa and two MGP legislators- Ratnakar Chopdekar and Sanjay Bandekar who supported him were disqualified under the provision of the anti-defection act, the MGP split further with five more, to make its leader Ravi Naik the new Chief Minister with the Congress support. The Governor got satisfied with the 'intelligent horse-trading' and allowed even the two disqualified legislators to be part of the cabinet in the Ravi Naik government. The MGP (Ravi Naik) group was then merged into the Congress and Ravi Naik thus expanding his Congress Democratic Front (CDF) government and a jumbo cabinet of 14, satisfying maximum number of greedy politicians in both the camps. But with Ravi Naik being disqualified by the High Court along with Chopdekar and Bandekar, he was replaced by Wilfred de Souza, who has masterminded the whole coup to seize the seat of power.

After the ten year Congress government Pratapsingh Rane was overthrown in 1990, politics of Goa was in a state of turmoil in post 1989. Whereas from 1963-1989 Goa had only three Chief Ministers, in the following year it had four different people occupying that office. Rane was followed in March 1990 by the controversial Churchill Alemao, who was sworn in as interim Chief Minister, until Speaker Luis Proto Barbosa could replace him on April 14. Barbosa, whose administration was tainted by charges of corruption, was disqualified from membership in the state assembly for violating Anti-defection statute in December 1990. He was followed by the MGP's Ravi Naik in January 1991. Although disqualified by the speaker under anti defection Law, Naik was able to govern with the support of congress. Wilfred de Souza became Chief Minister when Ravi Naik was disqualified by the High Court in May 1993. Ravi Naik approached Supreme Court and was re-qualified as Member of the house he again tried to take over de Souza with the help of the Governor was reinstated as Chief Minister but due to the intervention of Congress high command de Souza was made Chief Minister within 48 hours in April 1994. The Governor was sacked for his misuse of power. De Souza continued till the end of the tenure of the Assembly in 1994. Hence within a single term Goa witnessed Seven Chief Ministers

After attaining the statehood Goa witnessed the most blatant acts of defections in which even the office of Governor was dragged into the game of party politics and the then Governor, Bhanu Prakash Singh was transferred for dismissing de Souza's government to reinstate Ravi Naik as Chief Minister, once he was re-qualified by the Supreme Court. Secondly the office of Speaker was used for disqualifying and even re-qualifying the disqualified members in this tussle for power Goa witnessed the rule of seven Chief Ministers in five years (see Exhibit 2.4.1)

Exhibit 2.4.1 Goa State Assembly (1989-1994)

| Sr. No | Chief Minister | Parties that formed the | Assumed office | Ousted /resigned | Duration | Reason | Cabinet Size |
|--------------------------------------|--------------------|--|----------------|------------------|--------------------------|--------------------------------|--------------|
| 1 | Pratapsign Rane | Congress (I) | 11/01/1990 | 25/03/1990 | 75 days | Defection | 6 |
| 2 | Churchil Alemao | PDF Coalition (GPP, MGP) | 27/0/1990 | 13/04/990 | 19 days | Agreement | 10 |
| 3 | Luis Proto Barbosa | PDF Coalition (GPP, MGP) | 14/04/1990 | 13/12/1990 | 8 month | Breakup of coalition | 12 |
| Assembly kept in suspended animation | | | | | | | |
| 4 | Ravi Naik | CDF Coalition MGP (R), 4 rebel GPP, Congress (I) | 25/01/1991 | 20/05/1993 | 28 months | Disqualification by High Court | 14 |
| 5 | Wilfred de Souza | Congress (I) | 21/05/1993 | 01/04/1994 | 10 ^{1/2} months | Dismissed by Governor | 11 |
| 6 | Ravi Naik | Congress (I) | 02/04/994 | 04/04/1994 | 48 hours | High Command intervention | 11 |
| 7 | Wilfred de Souza | Congress (I) | 05/04/1994 | 20/11/1994 | 7 months | End of terms | 06 |

Source: (Fernandes, 1997; Fernandes, 2003)(DeSouza, 2006)

Elections to the Goa Legislative Assembly were held in 1994. The mandate of this Assembly was not fully in favour of the Congress, which won only 18 seats while electing 12 MGP MLAs, BJP made its debut in the Goa assembly with four and three UGDP MLAs, besides three independent. But as the non-Congress forces could not come together to form the Government due to BJP's reservations in supporting Churchill Alemao's UGDP, Rane could make it again by engineering defection in the MGP to form his government with the support of four defectors. He then also managed to get all three UGDP into the Congress, increasing his strength to 25. But he was pulled down within three and half

years by his own deputy Chief Minister Wilfred de Souza who formed the Goa Rajiv Congress (GRC) along with nine others to head a coalition Government with eight MGP and BJP conveniently forgot its principles of value based politics and supported the coalition government from outside.

This coalition could not last even for more than three and half months as group of four within GRC revolted against Wilfred de Souza, to join back to the Congress party and made Luizinho Faleiro as the Chief Minister. Meanwhile Wilfred de Souza retaliated by not allowing to function Luizinho Faleiro as Chief Minister for more than three months by pulling one Congressman Deu Mandrekar along with one Independent thereby the government was reduced to minority. However, BJP decided not to support any government, which left the Governor with no option but to dissolve the Legislative Assembly and President's Rule was imposed in Goa and fresh elections were declared in Goa. BJP, a right-wing party whose ideology run parallel to the regional MGP entered into an electoral alliance for 1994 elections which resulted in shifting of vote bank of MGP to BJP. BJP's popularity was seen in the steady rise of its vote share from 0.47 % in 1989 to 9.04 % in 1994. The politics of uncertainty, the MGPs declining image caused expectations to be raised on the emergence of BJP in Politics of Goa. Within three months after the elections MGP-BJP alliance began to show some signs of strain because the MGP feared to lose its mass base to the BJP.

During this period from 1994-1999 the legislators were fully vigilant regarding Anti defection Act and due to past experiences where voters of Goa have rejected those defectors who jumped from one party to another. Fearing to face elections after disqualifications under Anti Defection Act, leaders managed to engineer splits within the political parties to satisfy their selfish interests hence politics of faction was an emerging phenomenon in the history of party politics in Goa.

Elections were declared in Goa in May 1999 using a mixture of minority fear and money power the Congress rode back to power with 21 seats, a slender majority of one in the 40 seat legislative Assembly. In the assembly of 40, Congress won 21 seats, BJP won 10 seats, MGP managed to get four seats, two seats won by UGDP, two seats by GRC and one Independent. This was the first elections after attaining statehood to get such majority to a single party. In some constituencies the Congress used the strategy of getting rival candidates to pull out of the fray, sometimes for questionable considerations. BJP used it

game of manipulation backed support from wide range of the local press to improve its tally from four to 10 seats (Noronha, 1999). Meanwhile, the Hindu vote was increasingly contested with the MGP by the rising BJP, while Congress was plagued by factionalism and in November 1999.

Exhibit 2.4.2 Goa State Assembly (1994-1999)

| S. No | Chief Minister | Political Party/Coalition | Assumed office | Ousted /resigned | Duration | Reason |
|-----------------|------------------|---------------------------|----------------|------------------|-----------|-------------------|
| 1 | Pratapsign Rane | Congress, UGDP | 12/1994 | 07/1998 | 3.7 years | Defection |
| 2 | Wilfred de Souza | Goa Rajiv Congress | 07/1998 | 11/1998 | 3 months | Defection |
| 3 | Luizinho Faleiro | Congress, | 11/1998 | 02/1999 | 4 months | No party Majority |
| Presidents Rule | | | 10/02/1999 | 10/06/1999 | | |

Source: (Fernandes, 1997; Fernandes, 2003)

Soon after the election Congress party which emerged as the single largest party with absolute majority, Luizinho Faleiro was chosen as leader of Congress Legislature party and was sworn in as the Chief Minister of Goa. Faleiro was aware of some of the undercurrents in his Congress party, inspite of having absolute majority he felt the need to increase the numbers of Congress in the legislature and to strengthen his government and managed to get two members of UGDP to merged into Congress and two members from MGP which won four seats engineered split and the members were merged into Congress thus the strength of Congress was increased to 25.¹⁰ There were internal clashes with the Congress over the selection of Faleiro and his cabinet which excluded veterans and thus resulted in split in Congress. 10 Congress MLAs under the leadership of Health Minister Fransisco Sardinha formed Goa People's Congress (GPC). Thus the Congress was reduced to 15 on 19th November 1999. Five days later, a coalition led by Fransisco Sardinha with his ten GPC supported by ten members of BJP, two members of MGP formed the government. Few months later, in August 2000, five members of Congress formed a splinter group Congress (Sheikh Hassan) and joined the Sardinha led coalition government, thus reducing the strength of Congress to ten. Meanwhile BJP was trying to increase its strength in the Assembly and successfully engineered split in the GPC which itself was a splinter group of Congress. Meanwhile five Members of Congress (Sheikh Hassan) merged into BJP in October 2000. While three members of Congress Ramakant Khalap, Sanjay Bandekar and Babu Azgaonkar formed a splinter group under the leader of

Opposition Ravi Naik and merged into BJP thus strengthening the party to 18 from ten. BJP at this juncture encountered little difficulty in convincing the Governor of Goa Mohammad Fazal who asked for a floor test. On the eve of floor test four Members of GPC under Venkatesh Dessai formed a splinter group GPC (Venkatesh Dessai) on 22nd October 2000 later on 6th November 2000 there emerged another split in GPC (Venkatesh Dessai). Two members of GPC (Venkatesh Dessai) formed a splinter group GPC (Francisco D'Souza) and merged into BJP increasing BJP's strength to 20 in the house of 40. The coalition ministry led by Francisco Sardinha faced crises within a year and was reduced to minority. Manohar Parrikar emerged as the undisputed leader of BJP and was sworn in as the Chief Minister of Goa thus BJP-led coalition under Parrikar displaced Congress altogether. Although Congress was trying to topple the BJP led coalition government but could not do it successfully. GPCP (Zuwarkar) Somnath Zuwarkar along with Subhash Shirodkar, Victoria Fernandes, Francis Silver formed a group and merged into Congress in December 2000. After 20 years of Congress governments of governments formed by offshoots of the Congress party, this was the first non-Congress Government in Goa despite there being more ex-Congressmen than BJP stalwarts in it.¹¹ The coalition proved unable to last the full term of the Assembly and the legislature was dissolved in February 2002 when he sensed some political instability.

Exhibit 2.4.3 Goa State Assembly (1999-2002)

| S. No | Chief Minister | Political Party/Coalition | Assumed office | Ousted /resigned | Duration | Reason |
|-------|--------------------|---------------------------|----------------|------------------|-----------|-----------------------|
| 1 | Luizinho Faleiro | Congress | 09/06/1999 | 23/11/1999 | 5 months | Defection |
| 2 | Francisco Sardinha | GPC Coalition | 24/11/1999 | 23/10/2000 | 11 months | Withdrawal of support |
| 3 | Manohar Parrikar | BJP coalition | 24/10/2000 | 28/02/2002 | 1.4 years | Assembly dissolved |

Source: (Fernandes, 1997; Fernandes, 2003)

With the dissolution of the Goa Legislative Assembly, mid-term elections were held on 30th May 2002. The Congress won 16 seats and the BJP 17 seats in it, but the latter could form the Government with the help of an independent and two regional parties, three of UGDP and two of MGP ; under the leadership of Manohar Parrikar. Dissatisfaction within the Government, with individual parties and cabinet members pulling in different directions, with Babush Monserrate being ousted from power, led to the convening of a meeting of the assembly on the floor of the house, when the independent member, Filipe

Neri Rodrigues, was brutally manhandled by the police, as ordered, to enable him to vote with the Government, brought about its dismissal by the Governor S.C. Jamir. The role of speaker Vishwas Satarkar came under criticism for acting in partisan manner. The role of Governor in dismissing the government was also challenged in the Supreme Court.

It all began with a minor reshuffle of portfolios that the then Chief Minister Manohar Parrikar effected towards the end of January 2005. He withdrew the then Town and Country Planning portfolio from minister Atanasio (Babush) Monserrate and retained it himself. Taken by surprise and displaying hurt, Monserrate tendered his resignation from the council of Ministers saying that if the Chief Minister thought him unfit to run one department, he was unfit to run any. (Goa Today March 2005-PP10-17)

Even after toppling BJP government, Congress under Pratapsighn Rane as Chief Minister was able to prove its strength in the house in February 2005. He was able to win the vote of confidence due to the role played by pro-tem Speaker Fransisco Saradinha who was appointed to the post consequent upon resignation of the Speaker Vishwas Satarkar and the Deputy Speaker Narahari Haldankar who belonged to BJP, their resignation made constitutional crises. A month later Goa was brought under President's Rule and the Assembly was kept under suspended animation. By-polls were held in five constituencies due to the resignation of Members and Pratapsighn Rane was able to prove majority in June 2005 and was re-elected as Chief Minister and functioned till the end of the tenure of Assembly in 2007.

Exhibit 2.4.4 Goa State Assembly (2002-2007)

| S. No | Chief Minister | Political Party/Coalition | Assumed office | Ousted /resigned | Duration | Reason |
|-----------------|------------------|---------------------------|----------------|------------------|------------------|-----------------------|
| 1 | Manohar Parrikar | BJP | 03/06/2002 | 02/02/2005 | 2 years 8 Months | Withdrawal of support |
| 2 | Pratapsign Rane | INC | 03/02/2005 | 04/03/2005 | 1 month | ---- |
| Presidents Rule | | | 04/03/2005 | 07/06/2005 | | |
| 3 | Pratapsign Rane | INC | 07/06/2005 | 07/06/2007 | 2 years | End of the term |

Source: compiled from local newspapers)

In 2007, general elections to Goa state Assembly, Parrikar led BJP was defeated in the elections by the Congress. BJP won 14 seats, while Congress won 16; NCP bagged

three, MGP two, one Save Goa Front and two Independent. It was a tailor-made situation for the BJP in Goa. The Congress was not only suffering from a strong anti-incumbency disadvantage but was also rocked by pre-poll paroxysms engineered by the resignation of two powerful regional satraps- Churchill Alemao and Atanasio Monserrate.

Digambar Kamat, who had defected to the Congress in 2005, became Chief Minister after one and half decade to complete a full term. While there were several attempts to dislodge the Kamat government he survived them all. With this a new era of stable coalitions began after a more than a decade long unstable coalitions and minority governments (1989-2007).

Digambar Kamat, who had played a key role in the downfall of Manohar Parrikar government in 2005, was chosen as leader of Congress Legislative party by the High Command as a compromise between the senior Congress Leaders of Goa, Pratapsighn Rane and Ravi Naik. There were several threats to his government from within his coalition alliance partners and also from the opposition BJP. Digambar Kamat led Congress government had support of three NCP members as they had pre-poll alliance while two members of MGP and two Independents supported the government. Meanwhile the sole members of UGDP Atanasio Monserratte along with two members of Save Goa Front (SGF) and 14 members of BJP and one Independent Anil Salgaonkar. Victoria Fernandes of Congress also joined the camp and both the MGP members too withdrew their support to Kamat led government and came under the banner of Goa Democratic Alliance (GDA) in July 2007. In a surprising move the sole members of UGDP Atanasio Monserratte merged in Congress and supported Kamat led government. Looking at the situation Governor this time called for a special session of the Assembly to prove the trust vote. Meanwhile the Speaker of the Assembly on the receipt of disqualification petitions against Congress MLA Victoria Fernandes and two MGP MLAs disallowed them from participating into the trust vote thereby Speaker casting his vote ensured the Congress remained in power which defeated the vote of No-confidence against the government and Governor unlike 2005 when he kept suspension of Assembly, this time the same Governor allowed Digambar Kamat led government. This reduced the GDA strength and Kamat government continued till the completion of the term, Victoria Fenandes got Deputy Speakers post, one members of MGP Sudhin Dhawlikar got cabinet ministry along with Churchill Alemao of SGF.

The role played by the Speaker and the Governor who was the former Congress Chief Minister of Nagaland ensured that their political party remained in power which was one of the reasons for the success of Kamat led Congress government to complete his full tenure. Secondly Kamat received a lot of support from his party high command in Delhi and also from the Prime Minister Manmohan Singh which helped him to remain in power in spite of various internal party politics within the coalition. The cases of defection also reduced due to the introduction of 91st Amendment Act. It did not stop completely but there were very few cases observed during this phase. This brought a sense of discipline in the political atmosphere of Goa. In the last phase of party politics we have observed that the MLAs have attempted to go beyond limits imposed by the 52nd Constitutional Act. The 91st Amendment, however, makes such behavior difficult. A member has to resign and re-contest if he wishes to change the floor. Mergers are still accepted but it requires an involvement of two-thirds of the legislators.

One of the most patently fallacious arguments being put forward is that the political battles in Goa for the chair is a communally based one, between Hindus and Catholics. Politics has no religion. Less so a battle for the chair but it is a fact that religion is made use of by politicians, and the lobbies behind them, who think they can gain from the same.

In this history of party politics (1989-2007), whenever some political issues are to be solved, political parties use the ‘Communal stick’ to immediately divert the issue. This was used to isolate and also finish off the issue. During Konkan Railway agitation, through a series of manoeuvres, a systematic attempt was made to give a ‘Catholic’ colour to the protests. Never mind if people who had nothing to do with this community were also getting adversely affected. Never mind if, as newspaper reports said, one non-catholic lost his sanity as the Konkan Railway Corporation (KRC) acquired the only plot of land he had on his name. Yet, this was turned into a “Catholic issue”.

Such tactics were made use of when it came to putting down the concern over the sudden large-scale spread of luxury tourism projects. It was done during the Medium of Instruction agitations in 1990’s and also during 2012. It was sought to be employed during the language agitation of 1987. It apparently did not make a difference that these issues affected people all over the state, though in different ways. With the tussle for power within Congress during April 1994 between Willy-Ravi tussle for the chair, it seems that as a Hindi-Catholic battle. The aim was clearly to polarize opinion on such lines. Then, the

outcome is simple: the majority is right. The minority, by the very fact of being the minority, is wrong and loses out in the headcount.

The real nature of the 'representatives of the people' has really surfaced. One concern is that in recent years the political parties in power or in oppositions has totally ceased to be responsive to the concerns and needs of the common man. Instead, it has been virtually taken over by a clique of uncertain interests and coteries. In the post-statehood era since 1989-2002, taking advantage of the political uncertainty, two things have happened. Firstly, different lobbies have realized that they can obtain their way into powers and influence. Secondly, and more importantly, many politicians have realized that they can manipulate things and gain power.

2.5 Critical appraisal of political parties in Goa

If prudently observed the first phase of party politics (1963-1979), one can evidently say without any ambiguity that Goan voters have exhibited that they have a mind of their own since 1963. In that year they rejected the Congress in Goa; the party that was led by Jawaharlal Nehru at the center. In the opinion Poll of 1967 they rejected merger but in the ensuing election to the Assembly, they voted back the MGP to power. Although the first phase of Party Politics was mainly bi-party wherein MGP ruled and UGP opposed in the legislative Assembly, but there were other political players too who were trying to gain power. INC was the main contender. Soon after opinion Poll, elections were held in Goa in 1967 at this juncture UGP was split into two groups: UGP (Sequeira) group and UGP (Furtado) group. There was internal turmoil within UGP over the authoritarian functioning of their party leader Jack de Sequeira who was accused by his own party members of being adamant in decision making. It was all because of INC, which attempted to indulge into a pre-poll alliance with UGP in 1967 elections. A shrewd and seasoned politician would have considered this as sufficient justification to think seriously over the issue and find some way to fight the elections as united forces. Jack de Sequeira, however, preferred to stick to his principles and expected the INC to accept his terms and conditions and join him; which INC was not prepared to do. (Esteves, 1986). This was not liked by many in UGP which resulted into the split in the UGP. The core UGP group consisted of Enio Pimento, Urminda Lima Leitao J.L.G Araujo broke away from the UGP under the leadership of Alvaro Loyola Furtado under the banner of United Goans Party (Furtado

Group). This splinter group had sympathizers and supporters too but no organization to fight elections. It had no means to organize a campaign even in handful of constituencies where some of its leaders had followers and chances of winning.

Similarly MGP too was facing internal conflicts within the party due to the style of functioning of Bandodkar as a President of MGP. Some of the leaders of MGP accused Bandodkar of corruption and favoritism which was supported by INC and UGP. This state of affairs continued till 1970 when the first ever defection took place in the history of Party Politics in Goa. Toeing the line of their opposition, a group of seven legislators of MGP including a nominated MLA Jiva Gaonkar (who was nominated by Bandodkar, revolted against the Chief Minister Dayanand Bandodkar's authoritarianism and submitted a letter withdrawing support to the 16 members of MGP government on 28th July 1970. The rebel, led by K.B. Naik, two cabinet ministers- Anthony D'Souza and Gopalrao Mayekar and Deputy Speaker Manju Gaonkar, besides Gajanan Patil, dattaram Chpdekar. Bandodkar was left with his sole state rank Minister A.K.S. Usgaonkar while his Government was pushed into minority with only 11 MLAs left in MGP.

Efforts made to peace between the both the groups which also included Bhau's proposal to make Patil the Chief Minister, failed as the monsoon session approached. It was a shock for the whole state when a group of five UGP legislators led by Orlando Sequeira Lobo, voted across the bench, in favor of the vote of confidence in the house. The remaining four defectors were Abdul Razak, Valentin Sequeira, Elu Mirand and Rock Barreto.

Subsequently, only Miranda joined the MGP. On the other hand, among the MGP rebels, D'Souza, Mayekar and Patil joined the INC while the rest formed the Navi Maharashtrawadi Gomantak Party to contest 1972 elections. But the voters rejected all the 14 candidates of the NMG while Mayekar and D'Souza also lost on the INC tickets. Patil, who was offered Chief Minister's post by Bandodkar, was not even able to contest. The fate of UGP defectors was no different. Only two among the five, Miranda and Barreto contested to face a miserable defeat. The remaining three, including their leader Orlando Lobo Sequeira withdrew themselves from electoral politics. Goans proved that defections cannot be rewarding, though none of them had defected for positions.

In 1972 when the country was under an "Indira Wave", Goans gave Bandodkar two more seats in the Assembly (See Exhibit 2.1) ; similarly the "Janata Wave" of 1977 almost

went unnoticed in Goa. The Third Assembly of 1972, which lasted for over five years, was a smooth sailing for Bandodkar with a three member's ministry of A.K.S. Usgaonkar and Pratapsing Rane holding cabinet positions and his daughter Shashikala Kakodkar as the State Minister. He was in a comfortable position of 18 while UGP had been reduced to 10. After the sudden demise of Bandodkar in 1973, Shashikala Kakodkar took over the reins in her hands, completing the term successfully

Difference of opinions arose at the end of 1977 due to Shashikala- tai's alleged self-centered functioning. Under the pretext of expiry of the term of the Assembly, which had to be extended by two more months due to the National Emergency imposed by Indira Gandhi, two MGP loyalists- Jaisingrao Rane and Punaji Achrekar resigned in disgust, forming a separate group. They later joined the Janata Party, but lost in 1977 Assembly elections. Almost at the same time, Shabha Dessai, former Deputy Speaker also left MGP and joined Janata Party. Shortly thereafter Pratapsing Rane resigned as Law minister who accused the party of being run on a personality cult where collective decisions were not responsible and later joined Congress. A lot of young blood was brought in with Taai at the helm of affairs for post emergency elections held in June 1977. The UGP, on the other hand, split and merged into the Janata Party and the Congress, with this UGP completely disappeared from the Goan Politics. Its leader Jack de Sequeira joined Janata Party while some of the UGP leaders like Babu Naik, Eduardo Faleiro joined the INC. Despite the national wave, the MGP won 15 seats, once again forming the Government (See Exhibit 2.1) with the support of two independents from Daman and Diu. Taai's cabinet still remained at four, with Shankar Laad and Vinayak Chodankar holding cabinet ranks and Raul Fernandes as the minister for state. Janata Party made debut in Goa Assembly. While MGPs rule during this period faced state wide violent agitations of Ramponkars and students, Dayanand Narvekar and Dilkhush Dessai MGP leaders waged open war against the Chief Minister Kakodkar against her autocratic rule by voting against the government in the Assembly. With voting patterns shifted to 14 each on both sides, even the budget had to be passed with the Speaker casting his vote in favour of the government. The last blow to Taai's government, however, came when Shankar Laad resigned from the cabinet and joined the rebels, pushing the Shashikala Government into minority. As this led to unprecedented chaos in Goa Assembly the centre preferred to prematurely dissolve it and impose President's rule for six months, from 29th April 1979. While Narvekar and Dilkhush could win the polls once again by joining INC in 1980, Laad had to say goodbye

to politics forever. Most of these defections were either due to ideological differences or clash of egos or to save the governments.

Despite the failure of the opposition parties, which brought down the Shashikala Kakodkar Government, to put up a united stand against the MGP that ruled the territory since liberation has been given a thorough drubbing by the electorate. People have desired a change, not just for the sake of change but to find out whether the Congress would fulfill their aspirations. The former ruling MGP had not; and yet the voters gave it ample opportunity to rectify its mistakes. Apparently the MGP leadership got the impression that the people would accept its dictate whether promises were fulfilled or not; in fact an impression gained ground that nothing can defeat the MGP more so among the party leadership- and that it had some permanent mandate to rule Goa. This resulted in ignoring the legitimate grievances of the people who were opposed to MGP, a steadily growing tendency to be authoritarian and an indifference to public opinion. Along with this development a feeling among the people that only those who were with the ruling group could get things done; and there was the smell of corruption pervading the ruling party.

The political instability which had been a deplorable feature of some other State administrations and the Union Territories in the country was unknown as far as Goa was concerned. What was more important and was duly appreciated by the electorate was the refusal by the Chief Minister to succumb to the pressure of Indira Gandhi-then Prime Minister of India, and the Congress party to gain control over Goa administration as they had done with all other states during emergency.

Thus defeat of the MGP in 1980 and the overwhelming mandate to Congress- U can be considered as a calculated decision by the voters, not the result of any emotional reaction or a “wave” which was again contrary to national mandate to Congress (I) which formed the Government at centre. This gave a serious and heavy responsibility to the Congress- U in Goa.

This second phase of party politics in Goa (1980-1989) was mainly characterized by four salient features; firstly the party system in Goa underwent tremendous changes from Bi-party system of struggle for power between the regional forces to the struggle between the national party and the regional party. When UGP declines precipitously and with the disintegration in MGP, the Congress, first as Congress (U) and then as Congress (I) era begins in 1980. This spells the end of the regional party politics, since now the

contest was between a national and a regional party. On the eve of the 1980s elections, the Congress party, which had till then struggled to secure a foothold in Goan politics, became an attractive platform for elements in MGP and the UGP whose class interests were hurt and who felt economically constrained by the regional parties political ideology. The Congress party which promised to provide a boost to the stagnant Goan economy and modernize it replaced MGP in 1980s and thus began the decade long rule of the Congress party under Pratapsign Rane.

Secondly the internal party rivalries for attainment of Chief Ministers position, between Babu Naik and Wilfred de Souza who believed in 'factional politics'. Other than pure selfishness, there was no reason for Wilfred de Souza to leave Congress (I) because he could not satisfy his ambition of becoming the Chief Minister. This led to the emergence of splinter groups as mushrooms on the eve of elections and disappeared like that of Goa Congress led by Wilfred de Souza, BBGP led by Shashikala Kakodkar who was sidelined in Congress after joining it, from MGP, and MGP leaders did not accept her back from Congress. The greed for power, position and wealth had become the only purpose of the whole political existence. Internal factionalism split the Congress in 1983, even prompting the central government, also of the Congress, to threaten imposition of President's Rule saying, "we are fed up with these bickering from Goan politicians" (Fernandes, 1997; Fernandes, 2003). Revolting against the party leadership, leaving the party, forming another group and facing the electorate became a tradition since then.

Thirdly the decision making by representatives, in and for Goa, now has to contend with another level of veto, the party high command in Delhi to whom appeals are made, endorsement sought and whose authority gets invoked to settle party disputes. In the initial stages, political speculations were such in order to achieve total integration with India national political party in power should help to an extent to make a break with Go's insularity of the ages gone by and draw Goans closer to the rest of Indians and work with them more intimately for the good of the country. The concept of personality cult and dynasty rule had taken deep roots among the ruling elite, and the Congress (I) had for all practical purposes lost its ability to act and decide things according to mature, individual or collective judgment and to decide issues on their merits. Everything had begun to be decided by the party high Command in Delhi and only leader Prime Minister Indira Gandhi. The interests of the state in many cases were equated with those of the party, and

the interests of the party with those of its leader. Pleasing the high command was the main motto.

Finally the declining ethical and moral values in the Politics of Goa marked the one of the feature of the second phase of party politics in Goa. This lack of ethical standards and norms naturally led the people to lose all faith, trust and belief in political parties and politicians. But the voters of Goa were politically active and proved that defections cannot be rewarded and has rejected those who left the party half way. The electorates were not prepared to allow selfish, self-centered politicians to dominate the politics of Goa. Goan voters were sound enough to reject those splinter groups that came into existence by splitting the parties to which they initially belonged. The Goan had no faith in small splinter groups which claimed to be political parties but had neither the organization, nor the following, nor the resources to be able to secure a majority and run a Government. The general belief was that, if they could not work together in the united party to which they originally belonged, they will not be able to govern the Territory.

This phase of party politics from 1989-2007 was mainly characterized by three salient features firstly the rampant defection which led to the instability in Goan politics. The infightings within Congress during 1980s provoked a series of open rebellions in the Congress starting 1990, resulting in alternative governments being formed one after another. There was completely death of ideology within all political parties in Goa. MGP which was opposed to Congress in the first phase of party politics in Goa forms a government in coalition with Congress. Similarly BJP, formed government in 2000 with the help of Congress splinter groups that later on merged with BJP. Wilfred de Souza also formed government one alternative government with outside support from BJP in 1998 and Fransisco Sardinha formed another with the BJP participating in it in 1999. This was all a derision of representative form of government. The rampant defections were on decline mode since 2003 due to the enactment of 91st constitutional Amendment Act made enormous changes and brought strictures for those defectors who constantly changes their political parties once elected. This has led to the rise in split in particular parties as it was mentioned in the provisions of the said Act that if 2/3rd of the members of a party in the house have agreed to the merger, it will not be termed as defection. Now Members donot leave alone they leave in groups.

Secondly, due to the emergence and dominance of Congress and entry of BJP in Goan politics a new trend which was observed during the last of phase of party politics of interference of High Command in decision making of Goa was clearly observed by the people of Goa. Right from the decisions to give tickets to the party man to contest elections to the selection of the Chief Minister of the largest party or of the coalition Government, dominance of the High Command from Delhi was observed. MGP began to realize that the very nature of their organization and their regional character was a handicap to their success and set limits to their ability to achieve anything that they wish to. Considering this MGP entered into an alliance with BJP in 1994 which had a negative impact on MGPs vote bank, BJP which engulfed the traditional vote bank of MGP resulted in downfall of regional forces in Goa. This was the reverse trend as compared to the widespread trend in Indian politics, where there was spontaneous rise in the regional forces in most of the states while Goan politics observed a reverse trend. Several other mushroom parties emerged during this period in the name of regionalism but they were nothing but faction of Congress, Churchill Alemao's Save Goa Party, Wilfred de Souza's Goa Rajiv Congress, UGDP which have always been like a blackmailers to serve its own selfish motives.

Thirdly partisan behavior of speaker and the Governor came under lot of criticism during this period from 1989-2007. Under 57th Constitution amendment Act and 92st Constitutional amendment Act, Speaker of the legislative Assembly acquired enormous powers and authority in matters of disqualification of members elected to the House. Extensive misuse of power was observed during this period by the Speaker of the legislative assembly in deciding the disqualification petitions filed against defectors, in order to save a particular government to which the speaker belonged to, or to bring down a particular government. Similarly the constitutional position of Governor was also misused during this period in appointment of Chief Minister, in dismissing certain Governments, in imposing State Emergency (President's Rule) and suspension of assembly in order to encourage horse-trading was observed during this period. The role of Speaker and the role of Governor are analysed separately in the subsequent chapters.

Digambar Kamat, who had defected to the Congress in 2005, became Chief Minister with this a new era of stable coalitions began after a more than a decade long unstable coalitions and minority governments (1989-2007). Multipartisan tendencies in Goan politics had emerged that fully crystallized into a new party system. This was

marked by electoral competition between two pre-electoral coalitions, namely BJP led National Democratic Alliance and the Congress- led United Progressive Alliance or we may term this as bi-nodal system.

We notice the phenomenon on ‘Political Nomadism’ which means ‘part defection, floor crossing or party hooping.’ This has become one of the features of post-statehood democratic politics in Goa, more importantly during 1999-2002; the phenomenon of political nomadism raises different normative issues. Firstly if the various nuanced positions in the literature on representation are reduced to two broad theories, the mandate and the independence theories, where, in the former the representative is obligatory to represent the needs, interests and wishes of his/her constituents, and in the latter, where his/her obligation is to the ‘general good’, then we observe that the “political nomad is closer to the independence theory and would appear to draw justification from Edmund Burk’s 1774 speech, at the close of poll in Bristol, where he said that parliament was not ‘a corpus of ambassadors from different local interests.... but a deliberative assembly of one nation, with one interests that of the whole’.” (de Souza & Sridharan, 2006). In Goa, these political nomads have often defended their behaviour by saying that they have changed the political party in ‘general good’ and that the party on which they won the elections was not following the manifesto etc.

Secondly the causes and consequences of such nomadism raises the concern for party systems. While the causes can be mapped with respect to both the internal dynamics of party organization and external dynamics of party system; the consequences can be assessed in terms of its impact on the process of deepening of democracy. Political nomadism poses a serious challenge to party oligarchies, particularly, where these oligarchies are representatives of cast and religion. By threatening party with instability and exit, new group, in the person of political nomad, are able to make them more accommodative. For instance, it was Bharatiya Janata Party which was known for its hindutva based ideological base accommodated various groups from the Indian National Congress from different religious background by creating lawful split in the original party and merging them with BJP without any ideological base.

¹ O Heraldo, 14th September 1963 '*Um Partido Unico, Intitulado*' Pp.1

² The Navhind Times, dated 14th September 1963, pp.1

³ Times of India, dated 7th November 1964, Pp. 1

⁴ O Heraldo, 7th November 1964, Pp.1

⁵ Former Member of Goa Daman & Diu Legislative Assembly from United Goans Party who got elected in 1963 elections. Personal Interview with the Former MLA on 12th February 2018

⁶ BBGP- Bahusaheb Bandodkar Gomantak Paksha- a political party formed by Shashikala Kakodkar consequent upon her resignation from Congress party and when she was denied entry back into MGP.

⁷ A Vida, 6th December 1963, Pp.1

⁸ The Navhind Times, 23rd October 1963, Pp.1

⁹ UG election manifesto 1963

¹⁰ The Navhind Times, 5th July 1999, Pp.1

¹¹ Barbosa, A. M. (1999, November). BJP's backdoor entry: a fresh round of defection marks the end of Sardinh's reign. *Goa Today*, 20-21.

Chapter Three

Party Politics in Goa with Special reference to the role of Speaker of Goa Legislative Assembly

3.1 Introduction Background of Political defections in Goa

The office of speaker is an important institution in the functioning of legislative organ of the Government. The office of the speaker has considerably become both stabilizing and stimulating force in our parliamentary democracy; however, it has come in confrontation with certain contentious issues in our political systems which have largely lowered the dignity and prestige of this institution. This is probably due to the political parties trying to incline the decisions of the speakers to safeguard the interests of the political parties and owing to non-operation of the doctrine of impartiality attached with the office of the Speaker.

Political Defections have been a common phenomenon in India, particularly ever since coalition politics too centre state in national and state politics since early 1990s. They have therefore renewed scholarly interest in politics of representation. Hannah Pitkin's conceptual framing of representation as 'acting in the interest of the represented, in a manner responsive to them aptly sums up the meaning of political representation (Pitkin, 1967). From an analytical framework, Representation can be Trustee-where elected representatives are given the responsibility to govern by the voters and they in turn ought to serve the people as they think best, Delegate-where the elected representatives are delegated the responsibility to govern in the interest of the electorate and Partisan

The malady of defection has been plaguing Goa since 1990. Defections and counter defections in political parties has been a regular feature of Goa's political history. This has made Goa politically unstable in the cluster of states in the country. The political history of Goa shows that since the first assembly formation in 1963, the situation has worsened in all the subsequent elections in 1990's decade that witnessed large scale defections leading to formation of ten governments between 1989-1999. The role of Speaker as defined under the Anti-defection Law becomes an important factor for the present study. The Act defection Law of 1985, gave adjudicatory powers to the Speakers of the legislative

Assemblies in the State legislature in deciding the defection cases and the decisions of the Speaker became final. This role of the Speaker has gained controversies in India and various instances have been observed wherein the Speaker in order to safeguard the political party in power to which he belongs too, has given judgments instantly or has delayed the decisions. In this study an attempt is made to identify the various cases of defections in Goa and the role played by the speaker in deciding the defection cases in Goa legislative assembly.

Historically it was during the first assembly session itself that the politics of splinter groups and defections began (Prabhudesai, 1999). It was then, the twelve members United Goans Party (UGP) led by Jack de Sequeira, which was split and six of its legislators formed a separate group. Six rebels were under the leadership of Alvaro de Loyola Furtado¹. Soon in 1967 elections UG (Furtado) group fielded six candidates, however except one; no one could even save their security deposit. The second legislative assembly between April 1967 to March 1972, the Chief Minister Dayanand Bandodkar faced a troubled situation as a group of seven legislators from his ruling Maharashtrawadi Gomantak Party (MGP) revolted against him under the leadership of K.B. Naik of the ruling and withdrew their support². Efforts to call truce between the both the groups failed but the MGP Chief Minister won the vote of confidence on the floor of the house when a group of five UG (Sequeira) Party MLAs from opposing benches voted in favour of the Chief Minister. The splinter groups of UG (S) called them as UG (Progressive) and were led by Orlando Sequeira Lobo³. Later two of the MGP rebels joined congress while others formed Nav Maharashtrawadi Gomantak Party (NMGP), but none of them could win the 1972 elections. Among those who defected from UGP too lost the subsequent elections. It was clearly observed that there existed a trend of rejecting the defectors by the voters.

The sudden demise of the Chief Minister Bandodkar witnessed his daughter Shashikala Kakodkar taking over the reign in August 1973 but the differences cropped up by the end of the term of the third assembly within the ruling MG Party when two legislators Jaisinghrao Rane and Punaji Achrekar from MGP resigned and formed a separate group (Belekar,2011). Soon both of them joined Janata Party but could not execute their reentry in the assembly of 1977 elections. However Kakodkar managed to regain the power as there was once again split in the UG Party under Anant Naracinva Naik and later on the eve of elections of 1977 this UG (Naik) group merged with congress and the UG (Sequeira) group who were the original UG Party, merged with Janata Party; with this disintegration of UG party helped MG Party to win the elections of 1977. By

April 1979, discontentment started brewing within the ruling MGP following agitations by students and traditional fishermen, resulting in some legislators changing sides. However Kakodkar government could not survive this coup as her minister Shankar Lad resigned and joined the rebels. This move had the support of the leader of opposition Anant Naracinva Naik of Congress Party (Radhakrishnan, 1995).

Goa saw a unique mass defection in 1980, during the fifth assembly. The Congress (Urs) had won 19 seats and secured an absolute majority in the legislative assembly, while the MGP had to be satisfied with only seven seats of which five joined the Congress party. Overnight the Congress (Urs) merged with Congress (I). This gave an edge to Pratapsingh Rane who emerged as a consensus candidate to become the first Congress Chief Minister in Goa, though Wilfred d' souza and Anant (Babu) Naik were also strong contenders for the post. When, D'souza, along with three others left the Congress and formed the Goa Congress, a regional party. During the Sixth assembly elections in 1984 the Congress once again secured majority in the assembly with 18 Legislators, MGP's strength rose from two to eight.

A new trend of coalition government began after the 1989 elections which was, the first elections after Goa attained Statehood, in which the Congress could win only 20 seats out of 40. The MGP's strength increased from eight in 1984 to 18 in 1989 and two rebel Congressmen were elected as the independents. Soon after the general elections to the newly formed 25th State of the Indian Union, Congress (I) which won 20 seats was able to form the government and Pratapsingh Rane was elected as the leader of Congress Legislature Party as was sworn-in as the Chief Minister of Goa on 11th January 1990 (Fernandes, 1997 pp.117). Pratapsingh Rane from Congress party managed to form the government with the support of independent MLAs, however government collapsed due to split in the Congress as some of the MLAs were dissatisfied with their exclusion from the cabinet. These dissatisfied Congress MLAs formed Goan People's Party (GPP)⁴. Churchill Alemao became the Chief Minister of on 27th March 1990 promising to relinquish the post after the speaker Luis Proto Barbosa tendered his resignation to take up reins of the government. Alemao stood by his promise and resigned on 14th April 1990 to pave way for Barbosa, who formed the first "Jumbo Cabinet" by giving representation to six legislators each of the GPP and the MGP. The coalition experiment could last only ten months as deputy chief minister, Ramakant Khalap, of the MGP withdrew his support and also took two GPP MLAs on his side (Radhakrishnan, 1993). As the 13 member Congress did not support any group, the assembly was kept under suspended animation during which two of

the MGP legislators were disqualified under the anti-defection act by the Speaker of the Goa Legislative Assembly Surendra Sirsat who was a MGP legislator and the remaining MGP group split further. MGP splinter group led by Ravi Naik, became the new chief minister with the support of Congress Legislature Party. The MGP (Ravi Naik) group was later merged into the Congress. His government received a major blow when the High Court disqualified him along with two others from the membership of the legislative assembly (Fernandes, 1997) who was disqualified by the Speaker Surendra Sirsat as Ravi Naik bowed out; Wilfred D'souza took over as the chief minister. The eighth assembly from 1994-99 also had a fractured mandate. The Congress had 18 seats while MGP 12, BJP four and UGDP three legislators. Pratapsingh Rane became the chief minister after four-member splinter group of MGP extended their support to his government. This government was also not able to complete the full tenure due to split in Congress, two successive governments under D' Souza and later under Luizinho Faleiro came to power and due to further disintegration of Congress, the assembly was dissolved.

Various cases of defections are elaborated hereafter explaining about the role of Speaker as adjudicatory authority in deciding the defection cases:

3.2 Defection Case of the Speaker Luis Proto Barbosa

The Speaker Luis Proto Barbosa was alleged to have engineered defections to himself become Chief Minister of Goa. On 17th March 1990 Congress legislator Luizinho Faleiro had filed a disqualification petition against Barbosa under Anti Defection Law. He was alleged to have defected while being in the post of Speaker, the House elected Kashinath Jhalmi to decide the issue of his disqualification under the provision provided in Para 6 of the Tenth Schedule in the Constitution of India.⁵ The Anti-defection Act which forms part of the Tenth Schedule of the Constitution clearly specifies that the question of whether a member of a House has become subject to disqualification shall be referred to the Speaker of the House and his decision shall be final. If the disqualification of the Speaker is in question, the matter may be referred to any other member that the House may elect for the purpose and his decision shall be final. The Anti-Defection Act further reiterates that no Court has any jurisdiction in respect of any matter of a House under the said Act.⁶ On 13th December 1990, Kashinath Jhalmi, a member of the Goa Legislative Assembly elected under Para 6 (1) of the Tenth Schedule to consider a petition for

disqualification of Speaker Luis Proto Barbosa decided that Barbosa had been subject to disqualification for having voluntarily given up the membership of his party (Congress) and having formed or joined under his own leadership of a new Goan People's Party.⁷ Jhalmi held that the protection of exemption under Para 5 of the Tenth Schedule was available to Speaker only for purposes of being non-party or above parties while discharging the duties of a presiding officer. It could not be used to encourage the Speaker for becoming an active politician while remaining Speaker. (Kashyap, 2011)

The Judgment notes that Barbosa was a Speaker at the time of his resignation but did not mention the cause for resigning either officially or through the media. Besides, he resigned from the membership of the Congress two months after taking over as Speaker and therefore cannot be exempted from disqualification.⁸ Speaker had to remain aloof from politics and active participation to prevent a bias attitude. Barbosa challenged the decision of Kashinath Jhalmi and filed a write petition before the Panaji Bench of Bombay High Court on 17th December 1990 as he was disqualified from the membership of the House.⁹ However the Division Bench of Bombay High Court at Panaji rejected the plea of the Barbosa for leave to go to the Supreme Court in appeal against the judgment of the High Court on the grounds that no important question of law were involved in the petition and the Writ Petition challenging the disqualification order of Kashinath Jhalmi against Barbosa was dismissed by the High Court.¹⁰

3.3 Defection Case before the Speaker Surendra Sirsat

Case I: Domnic Fernandes V/s Six Members of GPP

Meanwhile Curchorem Congress (I) MLA Domnic Fernandes filed a disqualification petition before the office of Speaker on 28th March 1990 pleading for the disqualification of six Congress (I) rebels. On 7th December 1990, Domnic Fernandes pleaded for an adjournment of the petition filed by him stating that his petition had been about eight months ago and slight adjournment would not have much impact. Speaker Surendra Sirsat rejected his plea for time, stating that under the Rule 7 (3) of the Members of Goa Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986, there was no provision for affording personal hearing to the legislators and that the contention of Fernandes to that was not correct.¹¹

Exhibit No: 3.3.1 Defection Case before the Speaker of Goa Legislative Assembly
Surendra Sirsat (26th April 1990 to 4th April 1991)

| Case No | Petitioner | Defector | Date of Petition | Date of Order | Judgment | Time taken |
|---------|------------------------|--|------------------|---------------|------------------------|------------|
| I | Domnic Fernandes (INC) | Six Members of GPP ¹² | 28/03/1990 | 13/12/1990 | Petition dismissed | 260 days |
| II | Mohan Amshekar (MGP) | Luis Proto Barbosa and Six Members of GPP | 23/11/1990 | 06/02/1991 | Petition dismissed | 75 days |
| III | Vinayak Naik | Carmo Pegado (Independent) | 05/12/1990 | 07/02/1991 | Petition dismissed | 64 days |
| IV | Ramakant Khalap (MGP) | Ratnakar Chopdekar (MGP) & Sanjay Bandekar (MGP) | 10/12/1990 | 13/12/1990 | Both were disqualified | 3 days |
| V | Kashinat Jalmi (MGP) | Ravi Naik (MGP) | 27/01/1991 | 15/02/1991 | Ravi Naik disqualified | 25 days |

Speaker granted personal hearing to the petitioner, and to the respondent- Churchill Alemao, Ferrel Furtado, Luis Alex Cardozo, Somanath Zuwarkar, J.B. Gonsalves and Mauvin Godinho. The respondent argued that, since they were seven members who moved from Congress (I) to support the MGP, they constituted one third of the Congress Legislature Party (CLP) and that there was a split in the CLP, after which they formed a separate Party and the Tenth Schedule doesnot disqualify them. On 13th December 1990, speaker dismissed his petition against six members of GPP for non-compliance with mandatory provisions of rules, as the petitioner did not comply with Rule 6 (6) and (7) of the Members of Goa Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986, wherein the petitioner Domnic Fernandes was required to sign and verify the petition. Similarly 12 Congress (I) MLA's who signed the petition had to sign and verify the same which was not complied, Hence speaker dismissed the petition.^{13,14}

Case II: Mohan Amshekar (MGP) V/s Luis Proto Barbosa and Six Members of GPP

The political scene in the tiny state of Goa took an unexpected and dramatic turn when Sanvordem MGP MLA Mohan Amshekar filed a petition before the Speaker Surendra Sirsat on 21st November 1990 seeking disqualification of the Chief Minister Luis Proto Barbosa and Six GPP MLAs under Tenth schedule of the Constitution of India.¹⁵ Office of Speaker received the petition on 21st November while it was noticed by the speaker on 23rd November 1990. The belated move to redistribute portfolios among the

PDF MLAs and Ministers was one of the reasons for Amshekar's move to file the petition which was backed by the MGP. Amshekar was in fact the Chairman of the Goa Industrial Development Corporation and filed petition against his own colleagues.¹⁶

On 6th February 1991, Speaker Sirsat dismissed a petition against Barbosa and six others without going into the merits of the alleged defection on the ground that it did not comply with the requirements under the provisions of the Members of Goa Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986 the petitioner has to comply with the requirements contained in rule 6 (6), according to which every petition has to be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for verification of pleadings. Rule 7(2) provides that if the petition doesnot comply with the requirement of rule 6, the Speaker shall dismiss the petition and intimate the petitioner accordingly.

Case III: Carmo Pegado V/s Vinayak Naik

On 30th November 1990, Thivim Congress (I) MLA Vinayak Naik filed a petition before the Speaker Surendra Sirsat seeking disqualification of an Independent MLA from St. Andre Constituency Carmo Rafeal Pegado for violating provisions of the Tenth Schedule of the Indian Constitution. In his petition Vinayak Naik pointed out the fact that Carmo Pegado was elected as an Independent MLA. Congress (I) which won 20 seats in the election was falling short of one less than the majority. Carmo Pegado extended his support to Pratapsing Rane led Congress (I) government. Pegado became minister in Rane Cabinet. Vinayak Naik also brought it to the notice that in a petition filed by Domnic Fernandes seeking disqualification of six GPP MLAs it was stated in his petition that, Pegado had appended his signature to the petition filed by Domnic Fernandes and others calling themselves as Congress (I) Members.¹⁷ Kashinath Jhalmi- MGP MLA who appeared on behalf of Vinayak Naik stated that "he also at time voted with Congress and have by his conduct and association with Congress; he has shown that he was one of the members of Congress (I) Party". (Kashyap, 2011)

It has to be noted that in a small state like Goa, Independent MLA's can make, unmake and destabilize governments when ruling party has a slender majority. Anti defection law clearly makes provision debarring Independent MLAs to join any Political Party once elected. However on 7th February 1991, Sirsat dismissed the petition seeking disqualification petition of an independent MLA, Pegado as he found no case to prove that

Pegado had joined Congress however Speaker severely criticized Pegado in his order for making false statements.¹⁸

Case IV: Ramakant Khalap (MGP) V/s Ratnakar Chopdekar & Sanjay Bandekar (MGP)

The speaker of Goa Legislative Assembly on 13th December 1990 disqualified the MGP MLA Ratnakar Chopdekar and Sanjay Bandekar, from being members of the assembly and were ceased to be MLA from 13th December.¹⁹ This was in response to the petition filed by MGP MLA Ramakant khalap seeking their disqualification for defying the party whip and for accompanying the caretaker Chief Minister Luis Proto Barbosa. This disqualification petition was filed on 10th December 1990.²⁰ In the order passed by the Speaker of Goa Legislative Assembly on 13th December 1990, Surendra Shirsat mentioned that the two members have been disqualified under rule 191 (2) of the Constitution of India on Grounds of defection as set out in para 2(1)(a) and 2(1)(b) of the 10 schedule of the constitution. the petitioner Ramakant Khalap held that both MLA should be disqualified from the Assembly under article 191 (2) of the Constitution read with the tenth schedule on the grounds that both have voluntarily given up the membership of the MGP and that both failed to attend the special session of the Goa Legislative Assembly held on 12th December 1990 despite a whip issued to do so by the MGP. The speaker upheld in his judgment that Chopdekar and Bandekar both elected on MGP ticket have voluntarily given up their membership and have thus incurred disqualification as provided under Para to 1A and 1b of the tenth schedule of the constitution.²¹

Ratnakar Chopdekar and Sanjay Bandekar filed a writ petition in the Bench of Bombay High Court in Panaji contesting the disqualification from membership of the legislative Assembly by the Speaker- Surendra Sirsat.²² Their main argument was that the disqualification was biased and was done in undue haste, apparently with the sole purpose of benefitting the MGP and that its operation should be stayed till the order itself was quashed on full hearing of the petition.²³ The Speaker on receipt of a complaint from the MGP leader Ramakant Khalap issued 48 Hours notice to Chopdekar-Bandekar for giving explanations and immediately on 13th December 1990 issued the order of disqualification.²⁴ Chopdekar-Bandekar pointed out that the Tent Schedule of the Constitution defines a fair notice period as seven days and that though the two MLAs had pleaded for more time to put their case, the Speaker refused to grant it. The Speaker claimed that “the exigencies of the situation” did not allow him to grant more time. The

lawyer for Chopdekar-Bandekar argued further that it was not merely a procedural irregularity, but a denial of natural justice which amounted to a snatching away of fundamental rights.²⁵ The Court observed that the prima-facie allegations of bias were proved in conduct of proceedings that the Speaker and have held that there is some substance in the petitioner's contention of denial of natural justice and denial of fair hearing. On 14th December 1990, the Court stayed on Speaker's Ruling.²⁶

Case V: Kashinath Jhalmi (MGP) V/s Ravi Naik (MGP)

MGP MLA Kashinath Jhalmi filed a petition under article 191 (2) read with clause 2 (A) of the Tenth Schedule of the Constitution of India before the Speaker Surendra Sirsat on 25th January 1991.²⁷ It was a case that within a year it was for the second time that any Chief Minister was facing a disqualification petition after Barbosa. As observed in the case of Chopdekar-Bandekar where they were not given sufficient time to put their case, and when court upheld that the sufficient time should have been given by the Speaker. It may be noted that Sirsat issued show cause notice giving seven days' time to the Chief Minister Ravi Naik explaining why he should not be disqualified as the member of the Legislative Assembly.^{28,29} Under the Anti-defection Act, the Speaker needs to give only one week's notice in the case of a member of the legislative Assembly against whom a disqualification has been filed. Though Ravi Naik won the vote of confidence on 18th February 1991, two days later he was disqualified by the Speaker Surendra Sirsat from the membership of the House on the grounds that he had failed to prove that he had formed split group of the MGP and that he had the support of one third of the original party's MLA.³⁰

Aureliano Fernandes observed that "*the split was secretive, disguised and took place over a period of time. Although the decision of the breakaway MGP group to split the party was taken on 24th December 1990, it was kept a secret until 3rd January 1997.*" (Fernandes, 1997) The meeting was held on 24th December 1990 at Ponda, and was attended by office bearers of MGP alongwith eight MGP MLAs. It was decided that MGP (Ravi Naik) would be constituted and resolution to that effect was also passed. Consequently upon the split, the following members of legislative Assembly of the original MGP had joined the group representing the MGP (Ravi Naik) group and constitute the group representing the faction which this arisen as a result of said split in the original MGP and they are signatures to the declaration to that effect: Ravi Naik, Ashok T. N.

Salgaonkar, Shankar Salgaonkar, Pandurang Raut, Vinay kumar Usgaonkar, Ratnakar Chopdekar, Sanjay Bandekar and Dharma Chodankar.

Sirsat also noted under para 2 (1) (A) of the Tenth Schedule that although Ravi Naik had submitted to him the 24th December 1990 resolution by eight MGP MLAs to establish the case of split, it was addressed to no one. Secondly the individual MLAs had not given a declaration of their joining the split as per the standard procedure. Thirdly the split group was less than one third of the original MLA MLAs, since Dharma Chodankar's signature was obtained under duress and Chopdekar-Bandekar were already disqualified, which made the split comprise only four MLAs.³¹

Soon after the disqualification of Ravi Naik, he approached High Court and it granted interim stay on Ravi's disqualification.³² Ravi Naik alleged that the Speaker being affiliated to a political party and being devoid of trappings of a true judge tends to be biased. He also alleged that the Speaker's decision on disqualification smacked of partisanship as he had not been given sufficient time to prove with cogent evidence that the split was genuine. He also argued that Speaker had been unduly discriminating against him, as in a similar situation, the Speaker had acceded to MLA Carmo Pegado for an argument by granting him thirty days' time to reply. Due to the interim relief to Ravi Naik, he continued to be the Chief Minister of Goa until 14th May 1993, when the Goa bench of the Bombay High Court upholding the decision of disqualification of the Chief Minister Ravi Naik from membership of the House as per the order of then Speaker Surendra Sirsat. The High Court gave five days' time for making alternative arrangements. High Court noted that the Speaker had not acted unfairly. Meanwhile Ravi Naik challenged the decision of the High Court in the apex Court of India. Supreme Court passed a landmark judgment in this matter and set aside the order of High Court and passed a judgment on 15th February 1991 and the decision of Speaker to disqualify Ravi Naik from being the member of the Assembly was quashed. (Kashyap, 2011)

In this case Ravi Naik has not disputed that he has given up his membership of his original political party but he has claimed that there has been a split in the said party. The burden, therefore, lay on him to prove that the alleged split satisfies the requirement of Para 3 of the Anti-defection Act. The said requirements are:

- (i) The member of a House should make a claim that he and other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original party; and
- (ii) Such group must consist of not less than one-third of the members of such legislature party.

The Supreme Court observed that the first requirement was satisfied because Ravi Naik has made such a claim. The only question that remained in the opinion of the Supreme Court was whether the second requirement was fulfilled. The total number of the members in the legislature party of MGP (the original party) was eighteen. In order to fulfill the requirement of para 3 Ravi Naik's group should consist of not less than six members of the legislature party of MGP. It may be recalled that the Ravi Naik had claimed that his group consisted of eight members whose signatures were contained in the Declaration, a copy of which was also published in the local newspaper on 16th February 1991. In view of these facts Supreme Court refused to endorse the view of the Speaker Surendra Sirsat that the split had not been proved because no intimation about the split has been given to him. Supreme Court concluded that the order of the Speaker was in violation of the constitutional mandate and is liable to be quashed.

The Anti-defection law provides that the Speaker would be the final authority to decide whether a defection has taken place with a view to protect the privileges of the legislators. But the Anti-defection Act did not take into account the fact that Speaker in the Country are nominees of political parties and therefore cannot be relied upon to act in an objective and non-partisan manner.

The speaker was very prompt and even perhaps displayed indecent haste in having the petition of disqualification against Sanjay Bandekar and Ratnakar Chopdekar who were the first to break away from MGP. The speaker was equally prompt in disqualifying the chief minister Ravi Naik but for some mysterious reasons the speaker dismissed the disqualification petition against Carmo Pegado the independent MLA who had declared in writing that he was supporting the INC. Again Surendra Sirsat who refused to grant anytime to Bandekar-Chopdekar and also refused Ravi Naik's plea for a month's time to answer the show cause notice very benevolently decided to grant a month's time to Carmo Pegado and to the four

remaining MGP rebels. Considering that Bandekar-Chopdekar had already been disqualified when Ravi Naik group claimed it had split the original party. Logically, the speaker should have disqualified all the remaining five MGP rebels if they did not constitute one third of MGP legislature party. It is clear that who gets disqualified and who does not depends not on the provisions of anti-defection act, but on how the speaker chooses to interpret the said act. The fact that the implementation of the anti-defection act depends entirely on the political loyalties of the speaker has been dramatized time and time again in the country.

3.4 Defection Case before the Speaker (Acting Speaker) Simon D' Souza

**Exhibit No: 3.4.1 Defection Case before the Hon'ble Speaker of Goa Legislative Assembly
Deputy Speaker (Acting Speaker) Simon D' Souza (4th April 1991 to 25th July 1991)**

| Sr. No | Petitioner | Defector | Date of Petition | Date of Order | Judgment | Time taken |
|--------|--|--|------------------|---------------|--------------------------------------|------------|
| 1 | Ratnakar Chopdekar (MGP) & Sanjay Bandekar (MGP) Review Petition | Ratnakar Chopdekar (MGP) & Sanjay Bandekar (MGP) | 04/03/1991 | 07/03/1991 | Requalified | 4 days |
| 2 | Ravi Naik (MGP) Review Petition | Ravi Naik (MGP) | 04/03/1991 | 07/03/1991 | Requalified | 4 days |
| 3 | Kashinath Jalmi (MGP) | Shankar Salgaonkar (MGP) | | 21/06/1991 | Petition dismissed (Common Judgment) | |
| 4 | Kashinath Jalmi (MGP) | Vinaykumar Usgaonkar (MGP) | | 21/06/1991 | | |
| 5 | Kashinath Jalmi (MGP) | Pandurang Raut (MGP) | | 21/06/1991 | | |
| 6 | Kashinath Jalmi (MGP) | Ashok Naik Salgonkar (MGP) | | 21/06/1991 | | |

Case I: Review Petition of Sanjay Bandekar and Ratnakar Chopdekar

Soon after assuming the charge of the Chief Minister Ravi Naik, who had the challenge of proving majority on the floor of the House and the speaker Surendra Sirsat was the major threat to him with whom Kashinath Jhalmi had filed a disqualification petition against Ravi Naik and his two colleagues. The major plan of Ravi Naik was to oust Surendra Sirsat from the office of Speaker and with the help of deputy Speaker Simon D'Souza manage to change the game as per his convenience. However Ravi Naik's plan

was failed as the Speaker Surendra Sirsat disqualified Ravi Naik from the membership of the House (we have discussed this above) which was stayed by the High Court and finally on 4th March 1991, Surendra Sirsat was voted out from the office of Speaker after the non-confidence motion was passed against him. He was accused of partisan behaviour, illegal disqualifications of three members, undemocratic and authoritarian attitude and lowering the prestige and dignity of the House.³³ About 40 minutes after Surendra Sirsat was voted out of the office of Speaker and the House was adjourned, Chief Minister Ravi Naik and his two colleagues Sanjay Bandekar and Ratnakar Chopdekar moved a review petition before the Deputy Speaker Simon D'Souza praying that to set aside orders of disqualifications against them passed by the former Speaker Surendra Sirsat.³⁴

According to Bandekar-Chopdekar the disqualification orders against them dated 13th December 1990 “suffers from errors patents from the face of records and is passed in violation of the principles of natural justice.” Both of them claimed that the notices issued to them under the rules framed under the Tenth Schedule of the Constitution of India were short of seven days. They pointed out that while they were given only two days to file their comments they were refused an opportunity to adduce evidence and also further opportunity to argue in the matter. Taking cognizance of the review petitions of Bandekar-Chopdekar the De facto Speaker Simon D'Souza on 7th March 1991 repealed the disqualification order passed by former Speaker Surendra Sirsat against MGP MLAs Bandekar-Chopdekar. These two MLAs were now reinstated as members of the Legislative Assembly.³⁵ Deputy Speaker Simon D'Souza re-installed both of them on the grounds that they had been deprived of natural justice, they had not been allowed the statutory notice period; they had not resigned from their political party and they had not disobeyed the party's whip. The 25 pages order is particularly harsh on Surendra Sirsat for disqualifying the two MLAs in due haste and giving them in actually barely a days' time, whereas the Tenth Schedule of the Constitution states that at least seven days' notice is required. The lengthy order also goes into great detail about the nature of charges leveled by the MGP against the two MGP MLAs Sirsat's examination of these charges and how his findings were flawed.

Case II: Review Petition of Ravi Naik

In the review petition filed by Ravi Naik, the de facto Speaker Simon D'Souza on 8th March 1991 set aside the disqualification order passed by the former Speaker Surendra

Sirsat against Ravi Naik.³⁶ While re-instating Ravi Naik as a full-fledged member of the State Assembly, while pronouncing his order, Simon D' Souza observed that the Speaker Surendra Sirsat had denied him natural justice and ignored his plea for time to produce evidence that a split had occurred in the MGP. D'Souza observed that disqualification order was being rescinded because Ravi Naik had not been given sufficient opportunity to prove his case fully and because a split comprising of more than one third the members of MGP legislature wing had occurred fully protecting Ravi Naik from disqualification under Anti- defection Act.³⁷

In the light of all these facts Simon D' Souza concluded that in all fairness Ravi Naik should have been given more time to adduce evidence of the split by affidavits or otherwise if that was a consideration which was going to weigh with Sirsat. As regards the MGP split itself, Simon D' Souza observed that a negative inference against Ravi Naik was drawn because he had not produced affidavits of the members constituting his faction. This amounted to a violation of the principle of natural justice particularly in the light of the fact that Ravi Naik had sought an opportunity to produce evidence and was not given that.³⁸ Simon D' Souza held that consequent upon the split which occurred in the MGP and the formation of a faction in its legislature wing comprising more than one Third of its members, Ravi Naik did not attract disqualification under Anti-defection Act.

Meanwhile de facto Speaker Simon D' Souza was alleged strongly by the opponents for being biased and unconstitutional in setting aside the disqualification orders passed by the former Speaker and requalifying them as members of the House. Actually Simon D' Souza had been correct in re-viewing the disqualification orders even whilst referring to various laws and precedents to establish his claim. The main allegation was that Tenth Schedule doesnot provide for review of decisions taken by previous Speaker but Simon D' Souza asserted by referring to Article 21 of the General Clause Act of 1897, "*the article makes it clear that the power to issue on order which is conferred by an act of parliament also includes the power to rescind that order, whether this is explicitly stated or not*". As the Anti-defection Act was silent on the question of a review petition or appeal of or against decision taken by the Speaker, the power of review or repeal lie with the Speaker in matters of disqualification because the Anti-defection Act gives the legislature exclusive jurisdiction.

Meanwhile on 31st March 1993 in *Kashinath G. Jalmi V/s Speaker* (AIR 1993 SC 1837) the Supreme Court ruled that revocation of the disqualification order by the Acting Speaker Simon D' Souza on 7th and 8th March 1991 was null and void because even the Speaker himself did not have the power to review his own decision regarding disqualification order, and that an appeal against the Speaker's decision could be filed in the High Court.

Case III: Kashinath Jhalmi (MGP) V/s Shankar Salgaonkar(MGP)

Case IV: Kashinath Jhalmi (MGP) V/s Vinaykumar Usgaonkar(MGP)

Case V: Kashinath Jhalmi (MGP) V/s Pandurang Raut(MGP)

Case VI: Kashinath Jhalmi (MGP) V/s Ashok Naik Salgonkar (MGP)

Kashinath Jhalmi filed four separate petitions to disqualify Shankar Salgaonkar, Vinaykumar Usgaonkar, Pandurang Raut and Ashok Naik Salgonkar under article 191 (2) read with para 2 (a) of the Tenth Schedule of the Constitution praying that the above mentioned four MGP MLAs be declared as disqualified from being the members of the legislative Assembly for voluntarily giving up the membership of their party i.e. MGP. All respondents were directed to file their comments within seven days in accordance with the provisions of Rule 7 of the Goa Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986. All four MGP MLAs sought one month's time for the ground mentioned in their application dated 21st February 1991. It was may noted here that these four petitions were filed before the Speaker Surendra Sirsat who was then removed from the office of Speaker on 4th March 1991 and therefore the matter was placed before the de facto Speaker Simon D' Souza. The matter was for hearing on 19th April 1991 wherein the petitioner Kashinath Jhalmi objected the proceedings on the grounds that the decision on disqualification o grounds of defection shall be decided by the Speaker and not by Deputy Speaker. However Simon D'Souza disposed the objection and contended that Article 180 of the Constitution of India provides that during the vacancy in the office of Speaker, the Deputy Speaker shall perform the duties of the Speaker. In the light of relevant findings, Simon D' Souza pronounced his judgment on 21st June 1991. As a matter of fact,. There was a split in MGP on 24th December 1990 where the Shankar Salgaonkar, Vinaykumar Usgaonkar, Pandurang Raut and Ashok Naik Salgonkar belongs to MGP constitutes themselves as splinter group to be named as MGP (Ravi Naik Group). Kashinath Jhalmi had not produced before the Speaker any piece of evidence or material on record to reach

to the conclusion contrary to the one carried by the Speaker and therefore Simon D' Souza dismissed the petition and passed a common order on 21st June 1991.³⁹

3.5 Defection Case before the Speaker Shiekh Hassan Harron

Exhibit No: 3.5.1 Defection Case before the Speaker of Goa Legislative Assembly Shiekh Hassan Harron (26th July 1991 to 15th January 1995)

| Sr. No | Petitioner | Defector | Date of Petition | Date of Order | Judgment | Time taken |
|--------|------------------------|--------------------|------------------|---------------|--------------------|------------|
| 1 | Victor Gonsalves (INC) | Six Members of GPP | 01/01/1992 | 15/09/1994 | Petition dismissed | 988 days |

INC MLA from St. Cruz constituency Victor Gonsalves filed a disqualification petition against the six GPP MLA's under the Tenth Schedule of the Constitution against Somnath Zuarkar, J.B. Gonsalves, Mauvin Godinho, Churchil Alemao, Farrel Furtado and Luis Alex Cardozo for deserting the INC in a separate group called the Goa People's Party (GPP) to form the Progressive Democratic Front (PDF) Government. Subsequently five of them have been re-admitted to the INC, while Alemao was the lone GPP MLA.

The Speaker of the Goa legislative Assembly Sheikh Hassan Haroon dismissed the disqualification petition on 16th September 1994 mentioning that the same did not confirm to the doctrine of reasonableness of time. The Speaker observed that the case of the respondents did not suffer damage because of the post-split disqualifications of their colleagues- Luis Proto Barbosa as the said MLA had left the INC in the group of seven. Speaker took nearly two years to pronounce his verdict over the fate of these legislators.

The Speaker in his 26 pages common judgment observed that the petitioner had failed to give any justification for delay in filing the disqualification petitions and also cited the verdict of the former Speaker Surendra Sirsat against the six MLAs by the INC legislators on technical grounds on December 13, 1990. The judgment of the Speaker Sheikh Hassan Haroon noted that the cause of action arose on March 24, 1990 and the petitioner had filed his disqualification petition on January 1, 1992 almost two years later. The justification for such a delay was also not mentioned by the petitioner and this itself proves that there was lack of interest on the part of the petitioner.

The Speaker has dealt with three major points on deciding the dismissal of the aforesaid petition:

- i) The speaker noted that the petitioner failed to file the disqualification petition immediately after Kashinath Jhalmi pronounced his verdict on the disqualification of Luis Proto Barbosa on December 14, 1990. The speaker cited a famous Supreme Court judgment of Dhartikapar Madan Lad V/s Rajiv Gandhi of 1987 to substantiate his point.
- ii) The Speaker also stated since Wilfred de Souza had withdrawn the disqualification petition against these six MLAs from the apex Court, Gonsalves's petition amounts to *res judicae* and uphold the arguments of the respondent.
- iii) The judgment pointed out that the split of the Group constituted one-third of the legislative group and was a onetime process and as such the disqualification of Barbosa cannot be considered for attracting the disqualification.

It may be noted here that the number of defection petitions withdrawn, delayed not filed or simply not pressed reflect political calculations more than the interest of implementing the anti-defection law. The decision of Speakers and Deputy Speakers reflect cynical political strategizing to maintain alliances or sometimes simply to keep MLAs in line.

3.6 Defection Case before the Speaker Tomazinho Cardozo

Exhibit No: 3.6.1 Defection Case before the Speaker of Goa Legislative Assembly Tomazinho Cardozo (16th January 1995 to 14th June 1999)

| Sr. No | Petitioner | Defector | Date of Petition | Date of Order | Judgment | Time taken |
|--------|--------------------------|---|------------------|--|------------------------|------------|
| 1 | Pratapsingh Rane (INC) | Wilfed de Souza & four others ⁴⁰ | 27/07/1998 | 28/07/1998 (interim order) 29/07/1998 14/08/1998 | Disqualified defectors | 1 day |
| 2 | Wilfred Menezes Mesquita | Wilfed de Souza & nine others ⁴¹ | 27/07/1998 | 28/07/1998 (interim order) 29/07/1998 14/08/1998 | Disqualified defectors | 1 day |
| 3 | Domnic Fernandes | Wilfed de Souza & nine others | 14/08/1998 | -- | -- | -- |

On 24th July 1998, ten members of the INC under the leadership of Wilfred D' Souza resolved to split from the original political party and form a separate group by the name Goa Rajiv Congress Party (GRCP). The Speaker was informed on 27th July 1998 and asked for the allotment of separate seats. Meanwhile on the same day two separate disqualification petitions were filed before the Speaker Tomazinho Cardozo; one by INC MLA Pratapsingh Rane against Wilfred De Souza, Dayanand Narvekar, Subhash Shirodkar, Pandurang Bhatale and Pandu Vasu Naik. The other petition was filed by INC MLA Wilfred Mesquita against Chandrakant Chodankar, Carmo Pegado, Fatima D'sa, Jagadish Acharya, Deo mandrekar, Wilfred De Souza, Dayanand Narvekar, Subhash Shirodkar, Pandurang Bhatale and Pandu Vasu Naik. The main contention of both the petitioner was not to allow Wilfred De Souza and others to participate in assembly proceedings and /or vote in the course of such proceedings.⁴² Both the petitioner sought for ex-parte ad-interim relief claimed by Pratapsingh Rane and Wilfred Mesquita should be decided before the Assembly session resumed on 28th July 1998. Accordingly Speaker had ordered notice in respect of interim relief for 28th July 1998 and summons returnable on 3rd August 1998 insofar as the disqualification petitions were concerned. It appears that the Speaker did not at that time i.e. on 27th July 1998 deemed it fit to grant ex-parte ad-interim relief, which had been prayed in the petition. It is submitted on behalf of the Speaker that notices and summons were accordingly issued and since in spite of hearing made all efforts, notices could not be served, a public notice in Newspapers was published on 28th July 1998 in the Navhind Times. Meanwhile the Speaker Tomazinho Cardozo passed an impugned order on 28th July 1998; *"the respondents for the time being are restrained from participating in the proceedings of the Goa Legislative Assembly from 28th July 1998. The respondents are directed to show cause tomorrow i.e. 29th July 1998 at 10.00 a.m. before me in my chamber in the secretariat at Panaji, either in person or by a pleader as to why ad-interim ex-parte order granted today should not be confirmed pending final hearing and final decision in the above petitions."* (Extracts from the order of the Speaker)

With this ten legislators were disqualified with effect from 27th July 1998 from the membership of Goa Legislative Assembly in terms of Article 191 (2) of the Constitution. This disqualified members filed writ petitions in the Bombay High Court at Goa challenging the interim order passed by the Speaker on 28th July 1998.⁴³ The order was set aside by the Court on 3rd August 1998. In its judgment the court held that the Speaker had acted in great haste and the said order was against all canons and principles of natural justice. The ten split members of the Assembly invoked writ jurisdiction under Article 226

of the Constitution on account of common judgment dated 14th August 1998 passed by the Speaker in the two disqualification petitions filed by then Chief Minister Pratapsingh Rane and Wilfred Mesquita.⁴⁴ The point of contention was that the Speaker had fixed the order of disqualification petitions on 14th August 1998 at 12.00 noon which was adjourned to 4.00 p.m. it was alleged that the same was done with a view to entertain third disqualification petition filed by the INC Legislator Domnic Fernandes. The Speaker did not give any copy of the order of disqualification passed against the split members on 14th August 1998 till 4.00 p.m.⁴⁵ it was alleged that it had been intentionally delayed to prevent them from approaching High Court for relief. The court gave the order that the Speaker acted in partisan manner violating natural justice.⁴⁶ The impugned judgment and order dated 14th August 1998 by the Speaker allowing disqualification petitions and disqualifying the petitioners w.e.f. 27th July 1998 from being members of the legislative Assembly of Goa under the Article 191 (2) of the constitution read with Tenth Schedule was quashed and set aside by the High Court by its judgment and order of 7th September 1998.⁴⁷ High Court in its order also mentioned about their petition filed by Dominic Fernandes, it mentioned that, *“so far as the disqualification petition no.3/98 is concerned, we don’t find, in the facts and circumstances, there is any misjoinder as alleged by the learned advocates for respondents. We do not wish to express any opinion in the matter, but would like to observe that in case the petition is fold to be maintainable the same shall be dealt with in the light of the observations made in this Judgment and in accordance with the law on the subject”*. (Extract from the High Court Judgment)⁴⁸

If we look away from the judgment, that it is at the chain of political development alone, it was obvious that the Speaker was using the power of his office to suit the immediate counter strategy of the former Chief Minister’s group which had been reduced to minority by a planned strategy of a group dissatisfied with him in the INC, BJP and MGP. Stopping the rebel Congressman voting in a no-confidence motion with the BJP-MGP opposition was the main task in this counter strategy. The Speaker passed the interim order precisely to serve this aim of Rane group. The most honorable option for the Speaker Tomazinho Cardozo would have been to let the trial of strength take place on the floor of the House, if the Rane group had the majority as it claimed, it would have had proven it in front of the ‘Speakers eye’s’. It had not, the Speaker would have proved his honesty in the ‘Democracy’s Eye’. By restraining the ten members of Goa Rajiv Congress not only the Rane group but the Speaker too stood condemned in Democracy’s and every bodies eyes.

Speaker Tomazinho Cardozo makes yet another case that proved two things: one that something must seriously be done about the eligibility for the Speaker's office; and two, the provisions giving the Speaker the final powers to adjudicate in matters pertaining to the Anti-defection law must be immediately scrapped. With the nature parliament and state assemblies coming to be increasingly fragmentary in their composition, it is imperative for the Speaker to play a fair role. It is not only Tomazinho Cardozo but there is a whole line who acted much in the same sordid way in order to save the faction they belonged to from tumbling from power. In the cases relating to the Anti-defection law that have gone to higher Courts Speaker's arbitrary and hasty actions like in the Tomazinho Cardozo case are out rightly rejected. Nothing that is done merely to suit the immediate interest of a ruling party or group can be justified as constitutional.

3.7 Defection Case before the Speaker Vishwas Satarkar

**Exhibit No: 3.7.1 Defection Case before the Speaker of Goa Legislative Assembly
Vishwas Satarkar (12th June 2002 to 28th February 2005)**

| Sr. No | Petitioner | Defector | Date of Petition | Date of Order | Judgment | Time taken |
|--------|------------------------------|-------------------------------------|------------------|---------------|--------------|------------|
| 1 | Sadanand Shet Tanavade (BJP) | Filip Neri Rodriguese (Independent) | 31/01/2005 | 28/02/2002 | disqualified | 29 days |
| 2 | Rajendra Arlekar (BJP) | Digambar Kamat (BJP) | 26/02/2005 | --- | --- | --- |

Case I: Filip Neri Rodrigues V/s Sadanand Shet Tanavade

On 31st January 2005, BJP MLA from Thivim constituency Sadanand Shet Tanavade filed disqualification petition against the Independent MLA from Velim Constituency Filip Neri Rodrigues for supporting the INC as Rodrigues had joined the BJP in 2002 and to support this he produced photographs showing Rodrigues along with the BJP leaders for their party convention. Meanwhile the polarization had started in the State as four of the BJP MLAs resigned and MGP withdrawn its support to the BJP led government in Goa on 29th January 2005; ⁴⁹INC was all set to form the government. Newly appointed Governor of Goa S.C. Jamir asked for trial of strength in the legislative assembly to test the majority of the Manohar Parrikar led BJP government.⁵⁰

Taking note of the disqualification petition filed against Rodrigues, Speaker issued the Notice to Rodrigues which was published in local newspaper which mentioned, ‘... the notice is ordered to be issued to the said respondent (Rodrigues) as to why the ad-interim relief of injunction prayed for therein be not granted against the said respondent’.⁵¹

In order to save the government and to stop the Independent MLA Filip Neri Rodrigues from voting against the BJP led government he was restrained from functioning as the Member of the House by the speaker of the assembly Vishwas Satarkar pronounced an ad-interim order on 2nd February 2005.⁵² Speaker before the vote of confidence ordered ‘physical eviction’ of the Independent MLA from the house for no justifiable reasons and the same was reiterated by the Governor in his press note on 3rd February 2005.^{53,54} Governor said, “Any person who occupies the chair of the speaker should remain neutral and act in an impartial manner, and for all practical purposes, ceases to be a member of any political party.”⁵⁵ GPCC President Luizinho Faleiro alleged that the BJP government made three attempts to Kidnap Rodrigues.⁵⁶

The speaker’s action in initiating disqualification proceedings in respect of Independent MLA was clearly with an ulterior motive to reduce the numerical strength of the INC led United Legislature Party.^{57 58} On 28th February 2020, Speaker Vishwas Satarkar before relinquishing from the position of Speaker disqualified Filip Neri Rodrigues as member of the House.⁵⁹ The disqualified legislator, Felipe Neri Rodrigues, filed a petition before the High Court on 6th March 2005 challenging his disqualification from the assembly by the Speaker Vishwas Satarkar.⁶⁰ The petition challenged his disqualification on three broad grounds. That the order of disqualification by the speaker was biased and malifide, that it was breach of the principles of natural justice and that the findings relied upon to disqualify were totally false as they were forged documents and without making any attempts to prove their authenticity.⁶¹

3.8 Defection Case before the Speaker Francisco Sardinha

Exhibit No: 3.8.1 Defection Case before the Speaker of Goa Legislative Assembly Pro-tem Speaker Francisco Sardinha (28th February 2005 to 11th June 2007)

| Sr. No | Petitioner | Defector | Date of Petition | Date of Order | Judgment | Time taken |
|--------|---------------------------|-------------------------|------------------|---------------|--------------|------------|
| 1 | Jitendra Deshprabhu (INC) | Mathany Saldanha (UGDP) | 05/03/2005 | 09/08/2005 | disqualified | 48 days |

On 2nd March 2005, INC legislator from Pernem constituency Jitendra Deshprabhu filed a petition before the Speaker Francisco Sardinha seeking disqualification of lone UGDP legislator Matanhy Saldanha. Deshprabhu alleged in his petition that Saldanha had violated the Party's whip and continued to side with the BJP which amount to violation of anti defection law under the Tenth Schedule of the Constitution of India and hence be disqualified.⁶² Deshprabhu submitted along with his petition the report of then Speaker Viswas Satarkar of 2nd February 2005- House proceedings sent to the Governor clearly showing that Saldanha was with BJP contrary to the decision taken by the UGDP.

Speaker Sardinha on 9th August 2005 disqualified the Cortalim legislator Matanhy Saldanha under Rule 2 (1) (a) and Rule 2 (1) (b) of the Tent Schedule of the constitution of India for violating the Whip issued by his political party to vote on its directions. The order also applied Rule 2 (1) (a) by which it is inferred that Saldanha had voluntarily given up the membership of his political party by not following the party whip and which also not condoned by the UGDP within a period of 15 days. Meanwhile Speaker had already restrained him from exercise any rights including the right to vote as MLA on the floor of the House by an order dated 13th July 2005. Mathany filed a petition challenging the order of the Speaker in the Bombay High Court at Panaji which set aside the disqualification of Matanhy Saldanha by the Speaker Sardinha in 2011.⁶³

"Rule 2 (1) (a) and (b) of the tenth schedule states that member of the House stands disqualified if he votes or abstains from voting in the House contrary to any direction issued by the political party to which he belongs or any person or authority authorised by it without obtaining prior permission,". Saldanha had contended that since he was the lone member of UGDP in the assembly, he himself was authorised to issue a whip to himself and that a political party was not recognised by the tenth schedule. The Court observed while pronouncing its judgment that *"neither the Tenth Schedule of the Constitution nor the Members of the Goa Legislative Assembly (Disqualification on Grounds of Defection) Rules, 1986, prescribed any form in which a whip should be couched. The Court stressed that a specific direction to the members to vote or abstain from voting in a particular manner on a particular issue must therefore be considered as essential. This may certainly be viewed as opposed to the party line, but cannot be considered as an act done with the intention of voluntarily giving up membership of the political party"* Court further observed that *"there seems to be a serious lacuna in the rules about ensuring that the members have authentic notice of whips issued by their parties. There is no procedure for registration of whips with the speaker and it is consequently not possible for members of a*

party or opponents to verify, whether a whip is said to have been issued by the party even for the purpose of filing disqualification petitions.”

3.9 Defection Case before the Speaker Pratapsing Rane

**Exhibit No: 3.9.1 Defection Case before the Speaker of Goa Legislative Assembly
Speaker Pratapsing Rane (11th June 2007- 2012)**

| Sr. No | Petitioner | Defector | Date of Petition | Date of Order | Judgment | Time taken |
|--------|--------------------------------|---|------------------------------|-------------------------------|------------------------------|------------------|
| 1 | Chandrakant Kavlekar (INC) | Victoria Fernandes (INC) | 26 th July 2007 | 30 th July 2007 | debarred her from membership | 4 days |
| 2 | Agnelo Fernandes (INC) | Ramakrishna Dhavlikar and Pandurang Dhavlikar (MGP) | 26 th July 2007 | 30 th July 2007 | debarred her from membership | 4 days |
| 3 | Francisco Xavier Pacheco (NCP) | Churchil Alemao & Aleixo Reginaldo Lourenco (SGF) | 3 rd October 2008 | 3 rd February 2012 | Petition dismissed | 3 years & 4 days |

Case I: Victoria Fernandes V/s Chandrakant Kavlekar

Victoria Fernandes- lone women INC MLA elected to the Goa Legislative Assembly from Santa Cruz Constituency in 2007 general elections. At the time of inducting cabinet ministers on June 25th 2007, Victoria Fernandes was left out of the ministry and she went on protest. On July 24, 2007, Victoria Fernandes stayed away from the Assembly and on 25th July sent her resignation to the speaker of Goa Legislative Assembly.⁶⁴ While political development to topple the Digambar Kamat led coalition Government were getting momentum, Victoria Fernandes too joined the anti-Congress coalition under Goa Democratic Alliance. Victoria Fernandes said, “But I was humiliated and this was the injustice meted out towards the lone women Congress MLA.”⁶⁵

The speaker of the assembly kept her resignation pending. He argued that he will not react on her resignation as it was sent by courier. She should have personally handed over to him her resignation as per the laid procedure. Meanwhile a disqualification petition was filed by the INC MLA Chandrakant Kavlekar on 26th July as she absented herself from voting in the House despite ‘Party Whip’. Speaker Rane, on 30th July 2007, before conducting the floor test, the speaker gave his ruling on the disqualification petitions filed

before him and debarred her from functioning as member of the House or from participating in the proceedings of the Assembly. While justifying his act of debarring her, Speaker said, “her action of going with opposition is in itself was sufficient to debar her from taking part in the House.”⁶⁶

He fixed for hearing and summoned her by a Notice published in local newspapers⁶⁷ to appear before him on 13th August 2007. This was one of the disturbing feature to publish the notice in the newspaper as if the MLA was absconding. This shows both the lack of courage and conviction on the part of the defector to stand for their beliefs and to emasculation of the office of the Speaker. As her resignation was not accepted, she filed petition before Panaji bench of Bombay High Court against the Speaker for not accepting her resignation letter. There were speculations that Victoria Fernandes could be convinced to change her mind and it happened. Suddenly on 16th August Victoria sent a letter to the Speaker withdrawing her resignation letter.

Case II: Ramakrishna Dhavlikar and Pandurang Dhavlikar V/s Agnelo Fernandes

On 29th July 2007, two MGP MLA, Ramakrishna Dhavlikar and Pandurang Dhavlikar withdrew their support to the Digambar Kamat led government. In this regard, INC MLA from Calangute constituency Agnelo Fernandes filed a separate disqualification petitions against Dhavlikar brothers for withdrawing support to the Digambar Kamat ministry ‘without taking MGP into confidence as required by law.’⁶⁸

On 30th July 2007, before conducting the floor test, the speaker gave his ruling on the disqualification petitions filed before him. The speaker said as both the MLAs had violated the Tenth Schedule of the Constitution, he has passed an *ad interim ex- parte* Order restraining them from functioning as members- from participating and voting in the house. Speaker said ‘as per rules, he had issued notices to them, and fixed the hearing on 13th August 2007.’⁶⁹

After pronouncing the order, the speaker asked the Chief Minister to move the motion for a floor test and amidst chaos it was passed. This act of speaker to save Digambar Kamat led government came under lot of criticism as this was done only to refrain the MGP MLAs from voting against the vote of confidence as these MGP MLAs had joined the Goa Democratic Alliance which was the conglomeration of various parties under BJP. This strategy was only to save the Kamat led government. Speaker Pratapsing Rane

defended his decision quoting an order of the Bombay High Court at Goa of 1998 – Wilfred D’souza v/s Tomazinho Cardozo & others, which clearly empowers speaker to pass *ad-interim ex-parte* relief. Justifying his decision, Rane said, ‘Central Committee of the MGP, in its 6 June 2007 meeting had decided to extend support to the INC allowing formation of the government. However, no such meeting seems to have taken place when the two MLAs decided to withdraw support. There were also media reports indicating that Party’s central Council was not involved in the decision withdrawing support to the INC led government.’⁷⁰

Meanwhile Dhavlikar brothers approached the apex Court in Delhi and filed petition against the speaker’s decision of refraining them from functioning as members. Supreme Court questioned the procedure adopted by the speaker. ‘how can he the (speaker) issue notice only one side and not to the two MLAs’, a bench headed by Chief Justice K.G. Balakrishnan observed while expressing surprise that the two MGP members against whom disqualification petitions were filed were not heard. “It is strange case where notice has been issued to the complainant, but you did not issue notice to the MLAs who were going to be affected,” the Bench, also comprising Justice C K Thakkar and R V Raneendran said, before reserving its verdict on the bunch of petitions moved by the BJP-led opposition seeking fresh floor test the House.⁷¹

The speaker of the Goa Legislative Assembly played deception on the constitution to favour the Congress-led government of Digambar Kamat which had lost majority in the House. The speaker passed the *ex-parte* order before the trial of strength in violation of the Governor’s order directing the Chief Minister to seek fresh vote of confidence following withdrawal of support by the MGP MLAs.

Meanwhile MGP MLAs on 30th August 2007 Dhavlikar brothers withdrew from Goa Democratic Alliance and on the same day Dhavlikar brothers were qualified as MLAs by the speaker Pratapsing Rane who restrained them from voting on 30th July 2007.⁷² Speaker passed the order on his interim stay on the disqualification petition as they were alleged for switching loyalties while the MGP had not taken any formal decision. The speaker noted that the minutes book of the MGPs central Committee had made clear that no decision had been adopted by the party to withdraw support to the Digambar Kamat Ministry and support GDA. Their rights to function as MLAs were restored by the Speaker and speaker modified the *ad-interim ex-parte* order pronounced by him on 30th July 2007.⁷³

Case III: Churchil Alemao & Aleixo Reginaldo Lourenco V/s Francisco Xavier Pacheco

NCP MLA and Tourism Minister in the Digambar Kamat led government Francisco Xavier Pacheco, filed a disqualification petition against Navelim MLA and the PWD Minister, Churchil Alemao and the Curtorim MLA Aleixo Reginaldo Lourenco on 3rd October 2008.⁷⁴ The petition sought disqualification of the both the MLAs under the provisions of the Article 191 (2) read with the Tenth Schedule of the Constitution. Pacheco also insisted on restraining them from participating and voting in the Assembly. The petition alleged that the duo has ‘voluntarily given up the membership’ of their political party- Save Goa Front (SGF) and defied the SGF directives in the matter of the extension of support to the Kamat Ministry. Pacheco’s main allegation was that the ‘merger’ of SGF into INC was illegal and there has been no decision by the general body of the SGF.

Taking cognition of this incident of filing disqualification petition against his own cabinet colleague, NCP, which was part of the INC Digambar Kamat government in Goa, demanded that Pacheco should be dropped from the cabinet as he has sullied the party’s image in the State.⁷⁵ The disqualification petition which was filed by Pacheco in October 2008 following which the process as required under Tenth Schedule was initiated and hearings were held on 5th January, 2009, 16th April 2009, 7th July 2009 and 17th August 2009. In November 2009 Pacheco sought to withdraw the petition which was not granted by the speaker. Subsequently revision petition was filed in 2011 and hearings on the petition were held on 30th June 2011 and 22nd August 2011. The orders on both the petitions were passed on 3rd February 2012 wherein the speaker rejected and dismissed the disqualification plea against Churchill Alemao and Aleixo Reginaldo Lourenco.⁷⁶ The order passed by the speaker stated that the duo cannot be disqualified under paragraph 2(1) (a) & (b) of the Tenth Schedule, since they had joined and became the members of INC by merger and thereafter they stood freed from the control of the SGF and this doesn’t fit in the ambit of ‘voluntarily giving up the membership’ and both the MLAs constituted 100 % of the Legislature Party of the Political Party, namely, the Save Goa Front and placed before the Speaker that the SGF had merged with INC.

3.10 Cases of lawful Splits & Merger (1999-2002)

The Tenth Schedule, as it was originally enacted, contained a provision to protect legislators when an original party splits and one third of the legislators form another group. This provision was deleted by the 91st Amendment Act of 2003, when it was found that it was being abused by the legislators. Following cases of split in INC during 1999-2002 and their subsequent splinter groups within the faction and their merger into National political parties were the hall mark of this period which are analysed below:

INC which won 21 seats formed the Government under the leadership of Luizinho Faleiro on 9th June 1999. Soon after the formation of the Government and Cabinet, dissatisfaction within the INC MLA's started. Faleiro took defensive steps to prevent the dissidents from reaching the required numbers to form lawful splits in the Congress and keep off the anti-defection law. He started engineering defections in the regional parties like Maharashtrawadi Gomantak Party (MGP), United Goans Democratic Party (UGDP), projecting a picture that these regional parties had themselves preferred to join the INC⁷⁷. During the first two defections, the INC took both the UGDP legislators elected during 1999 elections- Suresh Parulekar (Calangute) & Jose Philip D'Souza (Vasco) into its party fold. This increased the strength of INC from 21 to 23⁷⁸. On the eve of Parliamentary elections of September 1999, the Congress engineered defection in the MGP and took two legislators out of four elected- Ramakant Khalap (Mandrem) and Prakash Velip (Quepem) into INC under the banner of MGP (Khalap) faction, this led to increase strength of the INC from 23 to 25⁷⁹. Realising Faleiro's move, the dissidents also became more active. The rival camps within the INC were ready for battle of wits and guts over the parliamentary elections fiasco issue. The spark was ignited by the MLA's who were aspiring for the ministerial positions in the cabinet.

On 19th November INC MLA and health minister, Francisco Sardinha led a revolt along with ten other legislators by forming a separate group INC (Sardinha) which was called Goa People's Congress Party (GPCP) and claimed to form the Government with the support of BJP and other allies⁸⁰. Francisco Sardinha along with Dayanand Narvekar, Victoria Fernandes, Subhash Shirodkar, Somanath Zuwarkar, Alexio Sequiera, Francis Silveira, Mauvin Godinho, Arcio de Souza, Venkatesh Dessai & Francis de Souza formed Goa People's Congress Party (GPCP) and communicated the formation of this separate party to the Speaker, Pratapsing Rane and claimed to form the Government with the

support of ten members of BJP, two members of MGP, lone NCP member Wilfred D'Souza formed Goa Democratic Alliance⁸¹. Sardinha was sworn in as Chief Minister of Goa on 24th November 1999. Dissidences within the INC were responsible for the fall of Faleiro's Government which reduced the INC strength to 14.

On 16th August 2000, once there was a split and these five members of INC led by Shaikh Hassan Harron (Mormugao), Suresh Parulekar (Calangute), Prakash Velip (Quepem), Jose Philip D'Souza (Vasco), Filip Neri Rodriguese (Villim) formed a faction of INC (Shaikh) and extended their unconditional support to Sardinha led Government⁸². The Speaker Pratapsingh Rane recognized the split in the INC legislature party.

In a fast-paced political development in Goa, on 21st October 2000, Four INC legislators- Ravi Naik (Ponda), Ramakant Khalap (Mandrem), Sanjay Bandekar (Canacona) and Manohar Azgaonkar (Dhargal) formed a faction- INC (Ravi) and later joined the BJP on the same day. Similarly on the same day, four out of five legislators from INC (Shaikh)- Shaikh Hassan Harron (Mormugao), Prakash Velip (Quepem), Jose Philip D'Souza (Vasco), Filip Neri Rodriguese (Villim) joined BJP⁸³. These two major mergers helped BJP to increase their strength from 10 to 18. BJP, along with two members of MGP and an independent legislator from Ponguinim constituency Isidor Fernandes supported the coalition and dislodged the Sardinha government. Manohar Parrikar was sworn in as the Chief Minister of Goa on 24th October 2000.⁸⁴

In another political development, on 7th November 2000, two legislators of GPCP under the banner of GPCP (Dessai) - Venkatesh Dessai (Valpoi) and Francis de Souza (Mapusa) formed a group and merged into BJP.⁸⁵

Meanwhile INC was trying to consolidate united opposition thereby strengthening INC. Four legislators of GPCP formed a faction GPCP (Zuwarkar) – Somanath Zuwarkar, Subhash Shirodkar, Victoria Fernandes and Francis Silveira, merged back into INC, thereby reducing the number of GPCP to three⁸⁶. They were all admitted into INC by Faleiro. Faleiro retaliated to combine all the forces against BJP for fight against their policies⁸⁷. On 5th April 2000, GPCP formally joined back to INC. Out of remaining three legislators- Francisco Sardinha, Mauvin Godinho joined back to INC.⁸⁸

As all the anti BJP forces were becoming strong in Goa, BJP realizing the threats of defections dissolved the Legislative Assembly to face the elections.

Exhibit 3.10.1: Cases of Splits & Merger- 1999-2002

| Sr. No | Date of Split/Merger | Political Party | Particulars of the events | Members associated | Remarks |
|--------|----------------------|-----------------|---|---|------------------------------------|
| 1 | 4.07.1999 | UGDP | Two MLAs Merged into INC. | Suresh Parulekar, Jose Fillip D'Souza | Split in UGDP |
| 2 | 16.08.1999 | MGP | Two MLAs Merged into INC | Ramakant Khalap, Prakash Velip | Split in MGP |
| 3 | 19.11.1999 | INC | 11 MLAs formed a separate Group INC (Sardinha) named it as GPCP | Francisco Sardinha, Dayanand Narvekar, Victoria Fernandes, Subhash Shirodkar, Somanath Zuwarkar, Alexio Sequiera, Francis Silveira, Mauvin Godinho, Arcio de Souza, Venkatesh Dessai & Francis de Souza | Split in INC |
| 4 | 16.08.2000 | INC | Five MLAs formed INC (Sheikh Hassan) to support Sandinha Government | Sheikh Hassan Harron, Filip Neri Rodrigues, Prakash Velip, Jose Fillip D'Souza, Suresh Parulekar | Split in INC |
| 5 | 21.10.2000 | INC | Four MLAs formed INC (Ravi Naik) to support BJP Government | Ravi Naik, Ramakant Khalap, Manohar Azgaonkar, Sanjay Bandekar | Split in INC to merge into BJP |
| 6 | 21.10.2000 | INC (Sheikh) | Four MLAs merged into BJP | Sheikh Hassan Harron, Filip Neri Rodrigues, Prakash Velip, Jose Fillip D'Souza | Merger of INC (Sheikh) into BJP |
| 7 | 07.11.2000 | GPCP (Dessai) | Two MLAs Split from GPCP and formed GPCP (Dessai) to join BJP | Venkatesh Dessai & Francis de Souza | Merger of GPCP (Dessai) into BJP |
| 8 | 14.12.2000 | GPCP (Zuwarkar) | Four MLAS from GPCP formed GPCP (Zuwarkar) to merge into INC | Victoria Fernandes, Subhash Shirodkar, Somanath Zuwarkar, Francis Silveira | Merger of GPCP (Zuwarkar) into INC |
| 9 | 05.04.2001 | GPCP | Two MLAS merged into INC | Francisco Sardinha, Mauvin Godinho | |

Source: BJP musters strength to form new government. (2000, October 22) *The Navhind Times*,

When we observe the Exhibit 3.10.1, we notice the phenomenon on ‘Political Nomadism’ which means ‘part defection, floor crossing or party hooping.’ This has become one of the features of post-statehood democratic politics in Goa, more importantly during 1999-2002; the phenomenon of political nomadism raises different normative issues. Firstly if the various nuanced positions in the literature on representation are reduced to two broad theories, the mandate and the independence theories, where, in the former the representative is obligatory to represent the needs, interests and wishes of his/her constituents, and in the latter, where his/her obligation is to the ‘general good’, then we observe that the “political nomad is closer to the independence theory and would appear to draw justification from Edmund Burk’s 1774 speech, at the close of poll in Bristol, where he said that parliament was not ‘a corpus of ambassadors from different local interests.... but a deliberative assembly of one nation, with one interests that of the whole’.”⁸² In Goa, these political nomads have often defended their behaviour by saying that they have changed the political party in ‘general good’ and that the party on which they won the elections was not following the manifesto etc.

Secondly the causes and consequences of such nomadism raises the concern for party systems. While the causes can be mapped with respect to both the internal dynamics of party organization and external dynamics of party system; the consequences can be assessed in terms of its impact on the process of deepening of democracy. Political nomadism poses a serious challenge to party oligarchies, particularly, where these oligarchies are representatives of cast and religion. By threatening party with instability and exit, new group, in the person of political nomad, are able to make them more accommodative. Here in this case, it was Bharatiya Janata Party which was known for its hindutva based ideological base accommodated various groups from the Indian National Congress from different religious background by creating lawful split in the original party and merging them with BJP without any ideological base.

3.11 Findings and observations

A critical analysis of the functioning of Speaker of Goa Legislative Assembly and a brief review of the decisions taken by the Speaker in context of defection cases reveals some alarming trends regarding Speaker’s office as an adjudicatory authority. Three major factors in particular needs to be examined:

- i) The first is the time taken by the Speaker to give verdict on a petition against defection; either a speaker has taken an inordinately long time or surprisingly short time to decide on a matter. And neither behavior satisfies the requirement of reasonable time between the filing of a petition and delivery of judgment. The appointment of Kashinath Jhalmi under Para 6 (i) to decide whether the disqualification provisions of Anti-defection of the Speaker apply to Barbosa on a petition filed by Luizinho Faleiro. In this case Kashinath Jhalmi took over nine months to give his decision, the life of the Barbosa Government, during which time he was Law minister in Babosa cabinet. In other words he functioned as the adjudicatory mechanism stipulated in the Act and as a partisan member of a Cabinet for which he bore collective responsibility. He gave his decision only after the coalition Government that was formed between GPP Legislators and the MGP collapsed because of internal contradictions. Similarly Surendra Sirsat, during his tenure as Speaker received several disqualification petitions and Exhibit 4.3.1 clearly showcases that he took varying length of time to decide them. Two of his decisions regarding disqualification of Bandekar-Chopdekar and Ravi Naik were reviewed and overturned by Simon D'Souza- Acting Speaker. The Third Speaker Sheikh Hassan, too disposed of petitions after an inordinately long period. He gave his verdict only after he received directions from the Court to expedite his decision. It took more than two and a half years from petition to verdict. The factor of time is important because the Anti-defection Act is a part of the punitive system which is integral to every political system.
- ii) The second factor concerns the justifications given by the Speaker for a particular decision. An analysis of the judgments shows that there is not just an inconsistency in them but they are also more a rationalization of factional interest than a rational defense of the law. The Speaker of Goa legislative Assembly Surendra Sirsat was designated the responsibility of deciding on the disqualification of the remaining six INC rebels. It would have been logical that following the disqualification of Barbosa, the remaining six INC rebels MLA's should also have been disqualified because following the disqualification of Barbosa, the remaining six rebels could not claim that they constitute one third of the INC legislature party. But the speaker Surendra Sirsat who owned allegiance to the MGP did not disqualify the six because three of them had aligned themselves with MGP and the speaker could not disqualify the four rebels who had realigned themselves with INC without

disqualifying the three rebels who had continued to support the MGP and by the time the speaker finally took up the disqualification matter against six rebels MLA's, the situation had changed dramatically. The six rebel MLA's managed to escape disqualification by at least giving the impression that they extended support to the MGP. There were even persistent rumors that the six rebel MLA's had struck a deal with the speaker himself. With the pledge of supporting the speaker and helping him to continue in office in exchange for the speaker being as kind as not to disqualify them. The anti-Defection Act was intended to discourage particular types of legislative behavior. Its application should be so as to discourage such behavior.

- iii) The Third factor concern the opacity of the decision-making process lending credence to the view that it is not procedure, the lengthy process of a constitutional order, but political expediency which is the undercurrents behind the decisions. This indicates a political calculus in which Speaker's judgment brings political advantage to the party to which the Speaker belongs. This is particularly true of the significant cases of defection i.e, GPP to MGP or Ravi Naik to Congress or Barbosa to MGP. The Anti-defection Act has thus become one more tool for manipulation rather than for setting disputes. It shows a cynical aspect of political competition. The same can be understood in the light of the fact that no Speaker disqualified a member who defected to the party/ side to which the Speaker belongs. The axe has always fallen on the members whose interests are in conflict with the interests of the Speaker's Party.

Certain disturbing features which have been observed during the period 1989-2012 while assessing the cases of defections and the role of Speaker are:

i. Notices published in the Local Newspapers

As if the legislators were absconding the Speaker was publishing the Notices in the local Newspapers when the Notices could have been served to the legislators by registered posts or by any other decent procedures. This shows both the lack of courage and conviction on the part of the defectors to stand for their beliefs and the amsculation of the office of the Speaker. Goa is a smallest State and if Speaker who is unable to issue notices to the legislators is a speaker who must seriously consider the legitimacy of his position. By publication of Notices in the local

newspapers the office of the Speaker have done great symbolic damage to the Democratic Political Institution.

ii. Interim ex-parte Orders

Speaker Tomazinho Cardozo, Vishwas Satakr and Pratao Singh Rane have passed such ad interim ex parte Orders within as short span of notice, an unseemly haste. Whereas in the past Speakers have taken from four days to two and a half years, here the Speakers have decided and passed an interim orders within 24 hours ex-parte shows that what is being attempted is not ‘justice and equality’ as mentioned in the order but the muzzling of due process.

iii. Physical eviction from the Assembly

On the basis of an interim ex-parte orders of disqualification, the Speaker orders marshals to physically evict the disqualified members, which adds a level of grossness to legislative proceedings. Speaker Vishwas Satarkar before the vote of confidence ordered ‘physical eviction’ of the Independent MLA Filip Neri Rodriguense from the house for no justifiable reasons. This was the blow to the important principle of freedom of expression and association.

iv. Voting Speaker out of the office

There are speculations over the position of a Speaker and Deputy Sepaker when a disqualification is pending and there is possibility of a change in the Government. What has been happening in the past whenever a new party comes to power the Speaker is voted out and new once installed through voting by a majority of legislators. Gone are the ethics and convictions that Speakers get re-elected unopposed. The new political party coming to power considers it prudent to get the Speaker replaced with one of its own trusted members.

v. Observations by the Judicial Institutions

In the writ petition 296/1998 & 197/1998 in the High Court of Bombay at Goa, while pronouncing its judgment mentioned that, *“the respondent No. 1 (the Speaker Tomazinho Cardozo) acted in haste, but the impugned Order passed by him in the facts and circumstances is against all canons and principles of natural justice and it appears to us that the impugned order was passed with a view to pre-empt the coming events which had cast their shadow before....”* Such type of observations by the Judiciary on the democratic institutions for their biased behavior has systematically destroyed the spirit of Democracy.

3.12 Conclusion

Defections displace the democrats from the centre of Democracy and replace it by the legislator who, by this displacement, can be seen as sanctioning a form of ‘bonapartism’. This malady was in fact considered serious enough for a constitutional amendment, the Fifty-Second Amendment Act of 1985, to be passed to curb the ‘evil’ which if not combated is likely to undermine the very foundations of our democracy and the principles which sustain it. Several years into its enactment there are calls for its repeal since it appears to have been less than effective in curbing this ‘evil of defections’. The Anti Defection Law was intended specifically designed to prevent horse trading. But in practice, the anti-defection law seems to have had exactly the opposite effect. In theory, the provision in the anti-defection Act whereby if one third of the members of a legislative or parliamentary party break away, it would be considered a split and not a defection was introduced to provide for genuine contingencies where a party or a section of the party decides to break away for ideological reasons. This provision in the Anti-Defection Act was never intended to promote wholesale horse trading or opportunistic splitting of parties purely with the intention of capturing power. However, the provision of ‘split’ was done away with by the Ninety First Constitutional Amendment Act- 2003 due to this increasing in wholesale horse trading. But the removal of the split provision prompted political parties to engineer wholesale defection (merger) instead of smaller groups.

The Anti-Defection law provided that Speaker would be the final authority to decide whether a defection has taken place with a view to protecting the privileges of the legislature. But the Anti-Defection Act did not take into account the fact that Speakers are the nominees of political parties. Therefore cannot be relied upon to act probably never envisaged that the Speaker who is supposed to be custodian of democratic values would himself seek to subvert the democratic process. Perhaps the biggest flaw in the Anti-Defection Act is that it bestows too much discretionary powers in the Speaker. The consequences have been that Speakers have systematically destroyed the spirit of the Anti-Defection law by choosing to interpret the provisions of the Act to suit their own partisan objectives.

In the case of Goa between 1989-2012 we instead find a high incidence of defections- the highest in fact for any comparable period since liberation in 1961. A part of the reason for such behavior is the weakening of the system of penalties. And a part of this

weakening stems from the functioning of the office of the Speaker with reference to the Act. A part of this functioning concern the time factor - delays as much as hasty judgments undermine this Act. It is unfortunate that those entrusted with the sanctity of our democratic institution should have stooped so low to remain in office.

The man who occupies the high office of the Speaker is outside and above all Party Politics and its conflicts. It is true that it is a party nominee that he is appointed to the chair, but he severs his ties as soon as he takes office. Speaker was supposed to be above politics and is expected to give impartial rulings. Even then political parties deem it necessary to take precautions. If the situation is such that there is a case pending a decision on which may damage the interest one or a group of persons, the move may be quick one. In case the Speaker concerned had taken any decision and made a public announcement about the procedure he or she may find it difficult to take a step even if it is an honest one. In fact, if it comes to a crunch an honest person may not mind losing the position rather than politically pressurized into taking a decision one way or the other.

¹ The splinter group was known as United Goans (Furtado- Pimento) group. The group comprised of Inno Pimenta, Joaquim Luis Araujo, Sebastiao Mazarelo, Mavarilio Furtado, Urminda Mascarenhas de Lima Laitao.

² The Group led by K.B. Naik included MGP MLAs- Anthony D'Souza, Gopal Mayekar, Manju Gaonkar, Gajanan Patil, Dattaram Chopdekar & Jiva Gaonkar.

³ The UG (Progressive) comprised of – Orland Sequeira Lobo, Elu Miranda, Roque Barreto, Valentine Sequeira & Abdul Razak.

⁴ GPP comprised – Churchill Alemao, Farrel Furtado, Mauvin Godinho, Somnath Zuwarkar, Luis Alex Cardoz and John Baptist Gonsalves besides Speaker Luis Proto Barbosa. The GPP along with MGP MLAs and an Independent MLA Babu Naik staked claim to form the new government

⁵ The Navhind Times, 19th December 1990, '*Barbosa's Petition Dismisses*', Pp.1

⁶ Herald, 17th December 1990, '*Condoning Defection*', Pp. 2

⁷ Herald 15th December 1990, '*Jhalmi disqualifies Barbosa*', Pp.1

⁸ The Navhind Times, 15th December 1990, '*Barbosa disqualified*', Pp.1

⁹ The Navhind Times, '*Barbosa files Writ petition*', Pp.1

¹⁰ Herald, 19th December 1990, '*Proto stays disqualified, HC dismisses petition*', Pp. 1

¹¹ Herald, 8th December 1990, '*Domnic's plea for time rejected*', Pp 1

¹² Six Members of GPP included Churchill Alemao, Ferrel Furtado, Luis Alex Cardozo, Somanath Zuwarkar, J.B. Gonsalves & Mauvin Godinho

¹³ The Navhind Times, 14th December 1990, '*Sirsat rejects plea against 6 GPP MLA's*', Pp.1

¹⁴ Herald, 14th December 1990, '*Case against 6 GPP MLA's dismissed*'. Pp. 1

¹⁵ Herald, 24th November 1990, '*Amshekar Files Petition for disqualifying rebels*', Pp. 1

¹⁶ Herald, 27th November 1990, '*MG will press claim to CM's Chair- Amshekar.*' Pp. 1

¹⁷ Herald, 7th December 1990, '*Disqualification Plea against Dr Pegado*', Pp.1

¹⁸ The Navhind Times, 7th December 1990, '*Plea to disqualify Pegado*', Pp. 1

¹⁹ Herald, 14th December 1990, '*Speaker disqualifies Chopdekar, Bandekar*', Pp.1

²⁰ Herald, 12th December 1990, '*Speaker serves Notice on Sanjay, Ratnakar*', Pp.1

²¹ The Navhind Times, 14th December 1990, '*Chopdekar, Bandekar disqualified*', Pp.1

²² Herald, 14th December 1990, '*Disqualified MLAs move High Court*', Pp. 1

²³ Herald, 15th December 1990, '*High Court stays Speakers Order*', Pp. 1

²⁴ Herald, 12th December 1990, '*Speaker Serves notice on Sanjay, Ratnakar*', Pp. 1

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- ²⁵ Herald , 15th December 1990, ‘ *The Only Honorable option* ’, Pp. 2
- ²⁶ The Navhind Times, 14th December 1990, ‘ *Courts stay on Speaker’s Ruling* ’, Pp.1
- ²⁷ Herald, 28th January 1991, ‘ *MGP files petition to disqualify Ravi* ’, Pp.1
- ²⁸ Herald, 30th January 1991, ‘ *Sirsat to issue show cause notice to Ravi* ’, Pp. 1
- ²⁹ Herald, 31st January 1991, ‘ *Speaker serves Ravi show cause notice* ’, Pp.1
- ³⁰ Gomantak Times, 16th February 1991,
- ³¹ Herald, 16th February 1991, ‘ *CM disqualified* ’, Pp. 1
- ³² Herald, 19th February 1991, ‘ *HC grants interim stay on Ravi’s disqualification* ’, Pp. 1
- ³³ Herald, 5th March 1991, ‘ *Speaker SurendraSirsat voted out* ’, Pp.1
- ³⁴ Herald, 6th March 1991, ‘ *CM, two other files review petition* ’, Pp.1
- ³⁵ Herald, 8th March 1991, ‘ *Bandekar-Chopdekar re-instated* ’, Pp. 1
- ³⁶ Herald, 9th March 1991, ‘ *CM Ravi also requalified* ’, Pp. 1
- ³⁷ Herald, 9th March 1991, ‘ *Counsel for disqualified MLAs drafts requalification Order* ’, Pp.1
- ³⁸ Herald, 9th March 1991, ‘ *Simon defends requalification* ’, Pp.1
- ³⁹ Herald, 22nd June 1991, ‘ *Confused Simon contradicts himself on Dharma status* ’, Pp.1
- ⁴⁰ Four members include Dayanand Narvekar, Subhash Shirodkar, Pandurang Bhatale, Pandu Vassu Naik.
- ⁴¹ Nine Members include: Dayanand Narvekar, Subhash Shirodkar, Pandurang Bhatale, Pandu Vassu Naik, Chandrakant Chodankar, Carmo Pegado, Fatima D’sa, Jagdish Acharya and Deo Mandrekar
- ⁴² The Navhind Times, 29th July 1998, ‘ *Cardozo defends debarring of rebels* ’, Pp.1
- ⁴³ The Navhind Times, 30th July 1998, ‘ *Wilfred files petition against Cardozo’s order* ’, Pp.1
- ⁴⁴ The Navhind Times, 15th August 1998, ‘ *Speaker disqualifies CM 9 Members of GRC Party* ’, Pp.1
- ⁴⁵ The Navhind Times, 18th August 1998, ‘ *Speaker seeks police aid to decide on plea today* ’, Pp.1
- ⁴⁶ The Navhind Times, 19th August 1998, ‘ *Disqualification of rebel MLAs stayed* ’, Pp.1
- ⁴⁷ The Navhind Times, 4th August 1998, ‘ *HC quashes Speaker’s interim order on Cong rebels* ’, Pp.1
- ⁴⁸ The Navhind Times, 19th August 1998, ‘ *Extracts of High Court Judgment on disqualification* ’, Pp.3

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- ⁴⁹ The Navhind Times, 30th January 2005, '*Desertion reduces BJP government to minority*', pp 1
- ⁵⁰ The Navhind Times, 2nd February 2005, '*Trial of strength in House today*', pp 1
- ⁵¹ Goa Today, March 2005, Replay of Political Vaudeville- a blow by blow account of the long drawn out tussle for power in Goa' Alexandre M. Barbosa, pp. 10-17
- ⁵² Herald, 4th February 2005, '*Jamir flays Speaker's role in floor test*' pp 5
- ⁵³ The Navhind Times, 3rd February 2005, '*Filipe Neri wounded in House Scuffle*', pp 1
- ⁵⁴ The Navhind Times, 3rd February 2005, '*Neri at Centrestage of Goan politics*', pp 3
- ⁵⁵ The Navhind Times, 4th February 2005, '*Governor blams Speaker for dismissal of govt*', pp 1
- ⁵⁶ The Navhind Times, 13th February 2005, '*The speaker should uphold justice and constitution*', pp. 2
- ⁵⁷ The Navhind Times, 19th February 2005, '*High drama at Secretariat*', pp 1
- ⁵⁸ Herald, 20th February 2005, '*Disqualification hearing suspense mounts as verdict awaited*', pp1
- ⁵⁹ Herald, 1st March 2005, '*Speaker puts a spoke in Rane's trust vote*', pp 1
- ⁶⁰ The Navhind Times, 8th March 2005, '*Neri Challenges disqualification in HC*', PP. 1
- ⁶¹ The Navhind Times, 2nd March 2005, '*Neri disqualification file goes missing from Speaker's Chamber*', pp 1
- ⁶² Herald, 3rd March 2005, '*Disqualification petition filed against Matanhy*', Pp.1
- ⁶³ Herald, 10th August 2005, '*Matanhy 'Punished' for disobeying whip*', Pp.1
- ⁶⁴ The Navhind Times, 26th July 2007, '*Victoria Fernandes submitted resignation*', Pp1
- ⁶⁵ The Navhind Times, 26th July 2007, '*Congress humiliated me, says Victoria*' Pp14
- ⁶⁶ Herald, 31st July 2007, '*Rane justifies his decision*', Pp.1
- ⁶⁷ Herald, 9th August 2007, Notice dated 8th August 2007 Before the Hon'ble Speaker of Goa Legislative Assembly at Porvorim, Goa
- ⁶⁸ Herald, 30th July 2007, '*Congress files disqualification plea against MGP MLAs*', Pp.1
- ⁶⁹ Herald, 31st July 2007, '*Speaker saves the day for Digambar*', Pp.1
- ⁷⁰ Herald, 31st July 2007, '*Rane justifies his decision*', Pp.1
- ⁷¹ Herald, 21st August 2007, '*SC faults Rane's Order on Dhavlikars*', Pp.1
- ⁷² The Navhind Times, 31st August 2007, '*Dhavlikar brothers qualified as MLAs*' Pp. 1
- ⁷³ Herald, 31st August 2007, '*Thodi Khushi, Thoda Gham for Dhavlikars*', Pp. 1

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- ⁷⁴ The Navhind Times, 4th October 2008, '*Pacheco files disqualification plea against Churchill, Reginaldo*', Pp. 1
- ⁷⁵ The Navhind Times, 7th October 2008, '*Pacheco should be dropped from cabinet: NCP*' Pp.1
- ⁷⁶ The Navhind Times, 4th February 2012, '*Speaker rejects disqualification plea against Churchill, Reginaldo*', Pp 1
- ⁷⁷ The Navhind Times, 23rd November 1999, '*It all points to ministerial positions.*' Pp. 5.
- ⁷⁸ The Navhind Times, 5th July 1999, '*UGDP MLAs join Congress, strength goes upto 23.*' Pp 1
- ⁷⁹ The Navhind Times, 17th August 1999, '*MGP (K) merges into Congress.*' Pp. 1.
- ⁸⁰ The Navhind Times, 23rd November 1999, Pp.1.
- ⁸¹ The Navhind Times, 20th November 1999, '*Congress Legislature Splits, Sardinha Stakes claim.*' Pp.1
- ⁸² The Navhind Times, 26th November 1999 '*Number one Task.*' Pp. 1.
- ⁸³ Barbosa, A. M. (1999, November). *BJP's backdoor entry: a fresh round of defection*
- ⁸⁴ The Navhind Times, 22nd October 2000, '*BJP musters strength to form new government.*' Pp.1
- ⁸⁵ The Navhind Times, 25th October 2000, '*Parrikar heads first BJP ministry in Goa.*' Pp. 1.
- ⁸⁶ The Navhind Times, 8th November 2000, '*2 former GPCP MLAs join BJP.*' Pp. 1.
- ⁸⁷ The Navhind Times, 16th December 2000, '*Cong for anti-BJP front.*' Pp. 1.
- ⁸⁸ The Navhind Times, 15th December 2000, '*Zuwarkar group returns to Cong.*' Pp. 1.

Chapter Four

Changing nature of functioning of Governor in context of Party Politics

4.1 Introduction

The role of Governor has emerged as one of the pivotal issue in centre-state relations. The Indian political structure was dominated by a single party for a number of years after Independence. Problems which arose in the working of centre-state relations were mostly matters for adjustment in the intra-party forum and the Governor had very little occasion for using his discretionary powers. The institution of Governor remained largely latent. Events in Kerala in 1959 when President's rule was imposed, brought into prominence the role of the Governor, but thereafter it did not attract much attention for some time. A major change occurred after the 1976 General Elections. In various states, the party in power was different from that in the union. The subsequent decades saw the fragmentation of political parties and emergence of new regional parties. Frequent, sometimes unpredictable realignments of political parties groups took place for the purpose of forming governments. These developments gave rise to chronic instability in several state governments. As a consequence, the Governors exercised their discretionary powers more frequently. The manner in which they exercised these functions has had a direct impact on centre-state relations. The office of Governor has been struck in controversies for last several years in matters concerning their appointment, functioning and removal. From time to time, Governors of States have been accused of partisan behavior and of acting as agents of the Political party or parties in power at the union levels. (Siwach, 1977)

The role of Governor has come in for attack on the ground that some Governors have failed to display the qualities of impartiality and sagacity expected of them. The institution of Governor of a State is of immense importance and the powers and functions bestowed upon the governors are similar in nature to that of the President of India at Union level. Being de jure head of the state government all its executive actions are taken in the Governor's name. While the president of India is 'elected' the Governor is 'selected' by

the existing central government via imperative processes. The trend in Indian politics is to appoint retired politicians or retired bureaucrat identifying with a particular political ideology are been appointed as the Governors in the State. This has led to misuse of Governor's position, usually at the behest of the ruling political party at centre and the process of appointment of Governor is the major cause behind it.

In defiance of its clear majority in the Legislative Assembly in 1959, PM Nehru led Central Government dismissed E.M.S. Namboodiripad's first democratically elected Left Government in Kerala. On Governor Burgula Ramakrishna Rao's counsel Jawaharlal Nehru dismissed the government. The Governor acted in conceptual contrast to the spirit of authority bestowed on it under Article 356 of the Indian Constitution (Varadachari, 1980). The office of the Governor was further devalued during the Prime Ministership of Indira Gandhi (1966-77 and again from 1980-84). In 1967, with the instructions from the Centre, the Government in West Bengal was dismissed within eight months of its formation. The dismissal was enacted in contentious circumstances by the then-Governor Dharma Vira. Without even giving Ajoy Mukherjee a prospect to prove his majority on the floor of the Assembly, in 1967 the Governor dismissed the United Front Ministry and commissioned P.C. Ghose as the new Chief Minister. Because of his reputation as "Indira Gandhi's Man", Dharma Vira's appointment had been opposed by the Left. After deliberation with the Prime Minister, in November 1967, the Governor refused to agree to the majority claims of the Front, even though they had not actually been tested. President's Rule was promulgated on the state. In another instance, without determining whether the Ministry headed by Choudhary Charan Singh enjoyed the support of the majority MLAs in the House, the then Governor of Uttar Pradesh Bezawada Gopala Reddy dismissed it in October 1970 (Sinha, 1992). In 1984, the then Governor of Andhra Pradesh, Ram Lal Thakur also went beyond his brief following the instructions from the Centre. Despite N.T. Rama Rao's Telugu Desam Party government enjoying the majority in Andhra Pradesh in 1984, it was terminated, thus, subverting people's mandate. It boomeranged on the Centre and dented the personal image of Prime Minister Indira Gandhi. Ram Lal did not give NTR an opportunity to prove his majority on the floor of the Assembly (Nainta, 1992). This led to nation-wide protests and triggered angry debates in Parliament and Ram Lal had to resign in disgrace for his indefensible action. In 1977, when the Janata Party government took over, all Governors appointed by Indira Gandhi were asked to demit office. The new regime argued that those Governors blatantly used the Raj Bhawan as a platform to manage Indira Gandhi's nefarious programmes during the Emergency.

Instability of the coalition governments has been an important fact of post 1967 experiment of multi-party governments in the Indian States. Dissimilarity of ideology, personal ambition of the political leaders, acute inter-party and intra party factional conflicts have been some of the important factors responsible for the collapse of coalition government in the states.

In July 2004, the then President A.P.J. Abdul Kalam impeached the Governors of Uttar Pradesh, Gujarat, Haryana and Goa on the advice of the newly elected UPA government. NDA appointed Governors such as Vishnu Kant Shastri, Kailashpati Mishra, Babu Parmanand and Kidar Nath Sahani were given the marching because of their RSS background.

The role of the Governor has gained a controversial semblance due to two factors. First, the Governor is generally perceived as a political appointee and more often acts as an agent of the centre, promoting its interests. Thus the action of Governor in dissolving or not dissolving the assembly has been to benefit the party ruling at the centre vis-à-vis its state unit prospects. Secondly most of the Governors in the Post statehood era were retired politicians and therefore the tendency to have an interventionist approach is noticeable in their functioning. This chapter examines five episodes in the history of post-colonial Goa where the Governor has functioned as an agent of the party in power at the union. An attempt is made in this chapter to understand the functioning of the role of Governor and the controversies that revolved around the institution of Governor in context to the following three powers as envisaged upon him by the Constitution of India. Article 164-pertaining to the appointment and dismissal of the Government, Article 174 (2) (b) - regarding dissolution of Assembly and Article 356 recommendation for imposing President's Rule in Goa. These three powers and functions of the Governor has been widely criticized in recent times and the case studies showcasing the politicization of the Institution of Governor by the dynamics of party Politics in Goa are discussed in this Chapter.

The office of Governor has been be misused and abused by the Political Parties in power at the Centre as an instrument for controlling State politics by exploiting its tenurial insecurity, party loyalty or through pandering his ambition. In Goa, for instance in 1990, When the Barbosa Government was reduced to minority, Governor recommended the Central Government to keep the assembly under suspended animation thereby giving an opportunity to the political parties for horse trading and manipulating the numbers and

forming an alternative Government accordingly Congress Democratic Front formed the Government by splitting MGP. In another instance Governor S.C. Jamir who was a veteran Congressman appointed by the UPA Government as Governor of Goa within few months of his appointment managed to dismiss the BJP led Coalition Government in February 2005. The actions of some of the Governors in the state politics of Goa have proved to be damaging the essential federal structure of India. In short, the negative image of the State Governors as above all 'an agent of the Centre' has proved difficult to erase in minds of the people.

4.2 Functioning of the Governor of Goa- Pre-Statehood

The background of Governor is synonymously related to the functioning of party politics in the state. It is a fact that the Governor is chosen by the leader of the country. (Article 155). According to article 153, there shall be Governor for each state. The same person may sometimes be appointed as Governor of two or more states. But as the President invariably acts on the advice of his Ministers, it is understandable that the recommendation of the Prime Minister play the decisive role. It is possible that the Cabinet Ministers may exercise their own weight in the selection of any name or names for the appointment of a Governor. Thus it is obvious that the appointment of the Governor is a political affair and is governed by the consideration of Party Politics.

The real position of the Governor should, however, be examined from both theoretical and practical standpoints. Theoretically, he is the model of a nominal head like the President at the Union. It is rightly held: "the Governor is the constitutional head of his state just as the President is of the Union. We may say that he is the President shorn of his emergency and transitional powers." (Rao, April- September 1968). Practically he is the faithful employee of the Union Government and as such it would not be wrong to treat him as the agent of the Union Government to act like its 'eye and ears' on the spot. Since the Governor enjoys his powers depending upon the contentment of the ultimate leader and pleasure of the head for all practical purposes means the pleasure of the Prime Minister, he is bound to play a role that is appreciated by the supreme ruler of the country. There are many instances when the Governor had to resign after the installation of a new Government at the Union level in the hands of a different Political Parties. For instance

when NDA Government came to power in 1998, T.R Satishchandran who was then Governor of Goa was removed from the office and J.F.R. Jacob was appointed as the Governor of Goa. Later, in the year 2002 Kidarnath Sahani, a strong RSS man and close associate of BJP was appointed as the Governor of Goa who was removed from the office when UPA government under Dr. Manmohan Singh came to power in 2004 and appointed Former Chief Minister of Nagaland who was a strong Congressman as the Governor of Goa. By all means, Governor plays the role of Centre's representative and, for this reason, it "depends upon what the man behind is doing with the strings." When bureaucrats were appointed as Governors of Goa their attitude towards the functioning of the state administration was different from those appointments of Ex-politicians. For instance when NakulSen was sworn in as Lieutenant Governor of Goa, he made an attempt to bring his office more closely to the public by regularly meeting and hearing public grievances. Lieutenant Governor Pratap Singh Gill use to hold Janata Durbar on first Monday of every month at the entrance of the secretariat, where he would hear public grievances. During President's rule in 1979-80 Gill really came into his own. He sent out senior officers every week to all talukas for a mandatory overnight stay and instructed them to hold their own mini Janata durbars.

Till date there are five occasions when the lieutenant Governor/ Governor of Goa has exercised and imposed Article 356 of law in India thereby declaring President's Rule in Goa. President's command depicts the deferral of interior supervision while obligating the unswerving fundamental decree at a place. The central Government asked Dayanand Bandodkar to step down before Opinion Poll of 1967 and he gracefully bowed out and lost the poll, but stood for re-election that soon followed and returned with a larger majority. In 1979, there was a rebellion in the MGP and when it became obvious to Morarji Desai, the then Prime Minister of India, Shashikala Kakodkar had lost majority, he insisted her to resign and president's rule was imposed in Goa. The congress which never won a seat, except in Daman, then won a massive mandate, so massive that even Shashikala kakodkar had no qualms in deserting the party her father had built and scampering to the winning side.

Considering the usage of Article 356 mentioned in the constitution of India, the Governors of Goa on five different occasions have exercised their powers envisaged under Article 356 stated in the establishment of the country. (Please see Exhibit 4.3).

The first ever plebiscite in India, was conducted in a free and fair manner under lieutenant Governor of Goa Daman & Diu Kashinath Raghunath Damle's administration who was not only a Maharastrian but brazenly a Maharashtawadi, since the Dayanand Bandodkar ministry resigned before the historic opinion Poll of 1967 to ensure a free and fair referendum and the first ever compulsion of ruler's decision in Goa. Amid run-up to the opinion poll, which was a referendum to decide the issue of merger of Goa with Maharashtra or separate union Territory status, there was a suggestion to transfer the lieutenant Governor since he hailed from Maharashtra, may adversely affect the conduct of the Poll. However, the centre correctly refused to entertain the objection and allowed him to continue till the formation of the next ministry.

The Union Government on 3rd December 1966 dissolved the Goa Daman and Diu Legislative Assembly to endure free and fair opinion Poll. A special type of emergency arose in the case of Goa on the issue of its proposed merger with Maharashtra. The president of India after considering a report from the Administrator of the Union Territory and after considering other information received by him declared President's Rule in Goa Daman and Diu. He was satisfied that for the proper administration of the Union Territory it was necessary and expedient to suspend the operation of certain provisions of the Government of Union Territories Act 1963 (20 of 1963) in relation to the Union Territory and to make certain incidental and consequential provisions.¹

Consequent upon the demise of Dayanand Bandodkar- the Chief Minister of the Union territory, Shashikala Kakodkar took over the wheels under her control and fulfilling her tenure victoriously. Discrepancy in different perception imbalances distinctly due to cursed dominating scenario. Covering the matter related to the extinction of the assembly period which anyway was stretched for few months following an iniquitous urgent situation sentenced by Indira Gandhi, dual Bhau partisans- Jaisingrao Rane along with Punaji Achrekar gave up due to revulsion that resulted in the creation of a different troop. The consequences led the excludes to be a member of the Janata revelry. Unfortunately, the group failed to win over Pratapsingh Rane and Chandrakant Chopdekar in 1977 selections.

Numerous youths were forced to join the association of Tai to surpass the matters that were created after the immediate voting event that took place in 1977. In spite of countrywide trend, MGP achieved 15 seats, for the second time shaping the power in association with the duo states that are autonomous; Daman and Diu. Tai's group consisted of four pillars like Shankar Laad and Vinayak Chopdekar preserving the position while

Raul Fernandes considered being the parson of the region. Although MGP's legendary regulation at this time struggled regional vicious throng actions done by Raponkars and students, Narvekar and Dilkhush strategized beside tai's suspected tyrannical power after appointing alongside the dominating ruler in the house. The changing trends in the constitutional selection the seats augmented to 14, equally. However, financial plan needs to be inspected at the speaker's permission, with the support of the governing power, added.

At this juncture the role of Lieutenant Governor P.S. Gill's role became controversial as he dissolved the assembly and imposed President's rule despite Shankar Laad having a clear majority when Shashikala Kakodkar Government lost vote of confidence in 1979; she rushed to Delhi to meet Prime Minister Morarji Dessai and the President of India N. Sanjeev Reddy and home Minister H.M. Patel, probably urged them and dismissed the assembly while putting president's rule at Goa, in a clear breach of norms of cabinet government which mandates that on the fall of the Government the leader of the next largest group should known as the one who would be dominating next. It was the situation when Government was reduced to minority as there was a spilt in the ruling party thereby creating an exigency. This was the second time that President's rule had been forced at Goa; the situation received detest from mainstreams since it appeared to be against impartiality and the rules of Parliamentary Democracy.²The Centre's decision to have President's Rule in the Union Territory came in the wake of a political crisis resulting in the fall of the MGP ministry headed by Shashikala Kakodakar. The confused political situation in Goa was discussed at the regular meeting of the Union Cabinet. Prime Minister Morarji Desai was reported to firm that the Centre shall not encourage political horse trading in attempts to form an alternate Ministry. In the Centre's view, there is no possibility of the formation of a stable alternative Government and the best course would be to hold fresh elections.

4.3 Functioning of Governor- Post-Statehood (1987-2012)

All though Goa attained statehood in 1987, the present study has focused the functioning and role of Governor after the first general elections to the Goa Legislative Assembly in 1989. The Role of Governor will be analyzed from the context of his i)

powers to appoint and dismiss the Government, ii) Power of Dissolving the Legislative Assembly and iii) recommendation of Constitutional crisis in the State.

4.3.1 Powers to appoint and dismiss the Government

Article 164 of the Indian Constitution mentions that the Governor appoints the Chief Minister and, on his advice, appoints other ministers to constitute his council of Ministers. Thus he administers to them the oath of office and secrecy and accepts their resignations. As the state ministry remains in Office during his 'pleasure', he may dismiss it at any time. Taking cognition of this provision of the Constitution of India, the Governors of Goa on various occasions have dismissed a popular Government to install an alternative Government.

a) Case of the Governor- Khurshed Alam Khan: Soon after the elections of 1989 to the Goa Legislative Assembly Pratapsing Rane was elected as the Chief Minister in January 1989. Amidst political uprising in the newly created State of Goa in March 1990 wherein the six Congress-I legislators along with the Speaker Luis Proto Barbosa withdrew the support to the Rane Government and Barbosa staked claimed to form the Government with the support of 19 MGP legislators and an Independent MLA.³ The then Governor of Goa Khurshed Alam Khan was in a dilemma as he was in a difficult situation that he had to report to the President of India on the political developments which followed the withdrawal of support to the Rane Government. Barbosa met the Governor to stake claim along with his 24 legislators in presence of the Union Minister George Fernandes who rushed to Goa from Delhi so that the toppling of the Rane Government doesn't fail by default. Initially the Governor did not have any complicated issues as the members of legislators and their identities would not have posed any problem, the 25 legislators being person known to all concerned. Complications arose when the incumbent Chief Minister Pratapsing Rane had strong arguments that the Budget session was on 26th March 1990 when the support enjoyed by him can be proved on the floor of the House and rejected to tender his resignation.⁴ However, he resigned just before the Budget session. Churchill Alemao was sworn in as the Chief Minister of the Goa as an interim government was formed to make way for the Speaker Barbosa to sworn in as Chief Minister on 14th April 1990. Meanwhile the eight month old Barbosa Government faced internal turmoil leading to the resignation of Barbosa on 14th

December 1990 following the order of disqualification passed against him under the Xth Schedule of the Indian Constitution. Details regarding the disqualifications are already discussed in the previous chapter in detail. Meanwhile, Assembly was kept in the suspended animation and a brief President's Rule was imposed in Goa. During this period political manipulation took place and Congress Democratic Front (CDF) staked claimed to form the Government and the leader of CDF Ravi Naik was invited to form the Government by the Governor giving him time to prove the majority on the floor of the house. Ravi Naik was facing disqualification under the Xth Schedule of the Indian Constitution (the case has been discussed in the previous Chapter). The Governor Khan, faced controversies over the appointment of Ravi Naik as Chief Minister of the State. It has been reported that while formation of Ravi Naik ministry he acted merely as an agent of the Centre. "Even though at first he categorically repelled all government formation efforts by both Congress and MGP, saying 21 MLAs were required to be paraded before him, he finally agreed to swear in Ravi Naik as Chief Minister when he had the clear majority of only 13 Congress MLAs and one Independent. It was apparent that the Governor, as a creature of political appointment was compelled to bow to party politics emanating from the Centre." (Fernandes, 1997)

b) Case of the Governor- Bhanu Pratap Singh:After Khurshed Alam Khan was transferred to Karnataka, Bhanu Pratap Singh took over as Governor of Goa when political situation in Goa was still volatile. The new Governor did not allow Ravi Naik for his Cabinet expansion, even when the Congress High Command had approved the same. The Governor's say was final as Congress was out of power and the Governor was not a Congress appointee. Governor was of the opinion that it was not appropriate time for expansion as there were parliamentary election process was going on in India. Finally when Ravik Naik was disqualified by the High Court of Bombay, along with Sanjay Bandekar and Ratnakar Chopdekar, the Governor sought the resignation of the Chief Minister and his Council, however, Ravi Naik refused to tender his resignation saying that he has not received a copy of the High Court order and was insisting directions from High command. High command asked him to continue and the matter was still pending in the apex court. However the Governor was keen on insisting Ravi Naik for his resignation and threatened him to dismiss him or to recommend President's Rule in Goa. Finally Ravi Naik resigned

after three days on 17th May 1993. Wilfred de Souza who was waiting to become Chief Minister of the State was sworn in as the Chief Minister on 18th May 1993. But his autocratic style of functioning alienated him from his colleagues led to disenchantment with his leadership within his own political party. Meanwhile Governor Bhanu Pratap Singh dismissed the Chief Minister Wilfred de Souza and his Government without having lost the majority and swore in Ravi Naik, once again as Chief Minister on 2nd April 1994. The sacking of the de Souza ministry without losing the majority and reinstatement of Ravi Naik clearly brought the office of Governor into disrepute, for pursuing purely personal, rather than constitutional or people's interests. As a consequent result of this, Prime Minister P. V. Narsimha Rao intervened to recall Governor Bhanu Pratap Singh and directed Ravi Naik to step down within 48 hours. And Wilfred de Souza was re-instated as Chief Minister of Goa.

C) Case of the Governor- J. F. R. Jacob: The Governor of Goa J.F.R. Jacob dismissed the three and a half year old Pratapsing Rane Government on July 29th, 1998 as Rane Government was reduced to minority after ten members of the Congress Legislature party supported by BJP and MGP to form an alternative Government. The Governor while withdrawing pleasure to the Council of Ministers led by Rane under Article 164 (1) of the Constitution, mentioned that he was convinced that the Rane Government had lost majority and was a minority in the House and thus invited Wilfred de Souza the leader of the new coalition to form the government and administered him the oath of office as the Chief minister of the State and asked him to take vote of confidence within 21 days.⁵ Meanwhile the dismissed Chief Minister Pratapsing Rane, challenged the decision of the Governor-Jacob, in installing Wilfred de Souza, filed a writ petition before the High Court.⁶ At the same time when the parliamentary session which was going on in Delhi, the Congress and other opposition parties stalled the proceedings in the both the Houses of Parliament protesting against the dismissal of Congress government in Goa and installation of the BJP supported coalition government in the state. They also demanded to recall the Governor J.F.R. Jacob and reinstatement of Rane government; the opposition parties blamed the Central Government for the “murder of Democracy” in the state.⁷ Rane Government was barely given 90 minutes to prove its majority in the house was considered as unfair by many. Therefore the action of the Governor Jacob who was earlier a member of the BJP think-tank on

defense matters, attracted sharp criticism within parliament. Governor may have acted within his rights under Article 164 (1) of the Constitution, but the action has thrown up several questions and controversies which prompted the opposition parties to describe as a 'rape of democracy'.⁸

Meanwhile, the writ petition filed by the dismissed Rane was rejected by the High Court mentioning that a vote of confidence as pivotal to the Governor's decision. The interpretation of the Court judgment was that although the Governor has the discretion to appoint the Chief Minister, he is prevented from misusing this power by the inevitable process of confidence-seeking by the person named by him. This is a natural constitutional check. If the Governor has used indiscretion, and if his Chief Minister has proven his majority in the House, the Governor shall have been vindicated for his discretion. The question of partisanship therefore does not arise. The Governor's pleasure to appoint somebody as Chief Minister has to have the stamp of the majority of the elected members of the legislature, which is the highest stamp in the system of parliamentary democracy we have adopted. A Governor could be said to be behaving unconstitutionally if he appoints somebody as the Chief Minister at his pleasure and then does not convene the Assembly at all. In short the High Court judgment has proven that the Wilfred de Souza Government was not a Jacob Government; that de Souza had to seek and get a favourable vote of Confidence within stipulated time frame. High Court also ruled that a review of the Governor's action can be done by the President of India.

Few months after the formation of de Souza Government, political uncertainties gained momentum on 19th November 1998 when three legislators from the ruling government- Subhash Shirodkar, Dayanand Narvekar and Pandu Vasu Naik submitted their resignation to the Governor when the Chief Minister was in United States of America.⁹ Within a short span of three and a half months that three legislators ganged up to bring down a Government of de Souza. Congress Party once again staked claim to form the Government and Wilfred de Souza submitted his resignation to the Governor and Governor invited Luizinho Faleiro to form the government.¹⁰ Even Faleiro Government could not run smoothly and lost the vote of confidence on the floor of the House in February 1999, which led to dissolution of Assembly and the imposition of President's Rule over Goa.

d) Case of the Governor- S.C. Jamir: With the dissolution of the Goa Legislative Assembly, mid-term elections were held on 30th May 2002. The Congress won 16

seats and the BJP 17 seats in it, but the latter could form the Government with the help of an independent and two regional parties, UGDP and MGP; under the leadership of Manohar Parrikar. Dissatisfaction within the Government, with individual parties and cabinet members pulling in different directions, with Babush Monserrate being ousted from power, led to the convening of a meeting of the assembly on the floor of the house, when the independent member, Filipe Neri Rodrigues, was brutally manhandled by the police, as ordered, to enable him to vote with the Government, brought about its dismissal by the Governor S.C. Jamir.

It all began with a minor reshuffle of portfolios that the then Chief Minister Manohar Parrikar effected towards the end of January 2005. He withdrew the then Town and Country Planning portfolio from minister Atanasio (Babush) Monserrate and retained it himself. Taken by surprise and displaying hurt, Monserrate tendered his resignation from the council of ministers saying that if the Chief Minister thought him unfit to run one department, he was unfit to run any. And then the political situation in Goa, never of the staid variety, was catapulted into action. The BJP roped in Benaolim MLA Francisco Pacheco into their fold and Pacheco who was unceremoniously dumped from cabinet in June 2004 received a warm welcome from BJP and was even expected to be sworn in again as a minister. It was maneuver that appeared to have quelled any possible revolt in the party. Later on Pacheco joined hands with Monserrate and two other BJP MLAs Isidore Fernandes and Pandurang Madkaikar, and the foursome in a sudden move resigned their seats in the Legislative Assembly, bringing down the effective strength of the assembly to 36. Simultaneously, two other ministers Sudin Dhavlikar of the MGP and Independent MLA Filip Nery Rodrigues, resigned from the council of ministers reducing the BJP Government to a minority. In a House of 36, the head count was 18 to the opposition and 17 to the BJP led Government with speaker's vote not counted. The Congress that had withered away in the opposition for almost five years saw opportunity knocking at its doors and swung into the thick of action. Gathering the deserting flock of the BJP, the Congress staked claim to form the Government. It was Congress-15, NCP-1, MGP-1 and Independent-1 that made up the figure of 18 for the Congress. On the contrary it was BJP-17 (including Speaker) that sent the Congress scurrying to the Raj Bhavan demanding the ouster of the Government and a chance to form one of their own. Cutting short his visit to Spain, in flew the lone UGDP MLA, Mathany Saldanha, who contrary to all expectations,

sat beside Parrikar and announced his support to the BJP. And then Governor ordered a vote of Confidence to be taken by the Chief Minister and both sides fine-tuned their strategy for it. BJP MLA Sadanand Tanawade filed a disqualification petition against Independent MLA Filip Nery Rodrigues for defection and the latter was summoned to appear before the speaker on the day of the confidence Vote. The summons was published in the newspapers as Rodrigues was not to be found. During the session Speaker called Rodrigues to hid chamber thrice, but the summons was 'ignored' by the MLA. On his entering the house, the speaker under Rule 289 of the proceedings of the House asked Rodrigues to withdraw himself from the House. This led to the Congress MLAs protesting vociferously and leaving their seats and congregating at the well of the House. The rule deals with disorderly conduct and for the Congress the question was how Rodrigues, who was seated quietly, could be sent off for misbehavior. The Speaker was repeatedly telling Rodrigues to leave the House and went further saying he would have him forcibly removed from the House. As the Marshal and other plainclothes policemen entered the House, Congress MLAs formed a circle around Rodrigues to protect him. In the melee, the speaker put the motion to vote and ruled that the motion had the approval of the House by 18 votes for to six against. With the Congress members not in their seats when the vote took place, the number was pigged at six for the opposition, counting those who rushed back to their seats. It was then that the policemen pounced upon Rodrigues and dragged him from the floor. (Goa Today March 2005-PP10-17)The event that occurred in the state assembly on the day the Parrikar Government faced a vote of confidence will not be easily forgotten in the annals of the history of post-colonial political history of Goa. If the speaker Vishwas Satarkar mishandled the issue, the role of Governor was blatantly partisan. Within minutes of the house proceedings having ended, the letter of dismissal of the Parrikar Government was delivered. This can only mean that the script was ready, and that it was only a matter of time before it was enacted. The Governor said in an interview to a national television channel that, after the speaker had murdered democracy, he had no option but to dismiss the Government. Only the politician's naïve would believe the explanation. The action was pre-mediated; regardless of the chaos in the assembly, the Governor was inclined to dismiss the BJP-led Government. From the reports that appeared in the local dailies, he had given ample indication of his mind to some Congress leaders. Indeed, if the Congress made a big fuss in the house, it

could possibly have been to strengthen their case with the Governor. It may be argued that the Governor was left with no option but to dismiss a Government that had won a vote of confidence in such a dubious manner. Assuming that to be true, the Governor could simply have directed that a fresh vote of confidence be taken on another day, this time by strictly following the procedures laid down. He could have warned that any further play with the rules would be severely dealt with, and could even invite the Government's dismissal. He did nothing of the sort. Within hours of dismissal of the Parrikar Government, he had sworn in close to midnight a Congress leader Pratapsing Rane as Chief Minister of a new Government. The Governor in protecting his stand said "he had no option left but to bring in a new Government hastily because otherwise there would have been a state of Vacuum." He further added that "he could not keep the assembly in a state of suspended animation because he would have to seek sanction from the President and that would have taken time." By quickly getting in a Congress- led Government, the Governor showcased his allegiance and lowered the dignity of his office.

This is an example when the Congress cut a sorry figure in the State where the Governor, a former Congress Chief Minister of Nagaland, dismissed the elected Government of the BJP. No doubt, it was an unstable government with a majority of two members. But the Governor went to the extent of not only sacking the BJP Chief Minister but installing one from the Congress who had all the time to prove his majority when he liked.¹¹

4.3.2 Dissolution of Assembly

The provisions of Article 174 (2) (b) gives power to the Governor of the State to dissolve the Legislative Assembly when either the tenure comes to an end or the political situation in the State compels him to do so. This power is not to be used by the Governor at the instance of the Centre however in various States of India the Central government has misused this provision in a dubious matter to interfere in the Governance and politics of the State.

For instance on 27th February 2002, the Governor of Goa Muhammad Fazal, in exercise of the powers conferred under Article 174 (2) (b), on the advice of the Council of ministers, dissolved the Goa State legislative Assembly. Meanwhile the Governor issued the Notification instructing the

Council of Ministers headed by Chief Minister Manohar Parrikar to carry on its function until his successor takes oath under the Constitution. As we have observed the previous chapters that in November 2000 BJP government was formed after taking rebels from other parties into it as that was the fractured mandate as only ten legislators of the BJP were actually elected in the 40 members house. This was for the first time that the Legislative Assembly of Goa was dissolved in such a manner. In Past assemblies were dissolved prematurely, but only after it witnessed series of defection, which led to instability.

However this was done as the Chief Minister transpired that there were attempts to topple his Government during the budget session which was scheduled in March 2000. Meanwhile the Congress legislators filed two separate petitions before the High Court of Bombay at Goa challenging the decision of the Governor to dissolve the Goa Legislative Assembly.¹² Surprisingly, two diametrically opposite orders were passed by the two member division bench of Bombay High Court. In his Judgment, Justice Aguiar mentioned that the order of the Governor suffers from malafides and is based on advice to dissolve the House, for a purpose not authorized by law. The order of Governor was an abuse of power and therefore unconstitutional. However, Justice Hardas, upheld the Assembly dissolution by dismissing the petitions in this regard, stating that both the petitions had no grounds to challenge the Governors' Order. Finally High Court dismissed the two petitions and mentioned categorically in the judgment that, "it appears the petitioners wanted to gain political mileage. Practice of using judicial forums or courts for political benefits needs to be arrested."¹³

However the undercurrents were strong that there was a strong attempt to bring down the Manohar Parrikar Government and to form an alternative Government. The question remain unanswered here is if the Central Government was not of the Political party that was in power in Goa would the Governor have dissolved the Assembly in the similar manner. However this is the only instance in the political history of Goa that the Governor under Article 174 (2) (b) dissolved the Legislative Assembly.

4.3.3 Imposition of President's Rule

Article 356 of the Indian Constitution mentions that the Governor may report to the President with regard to the breakdown of constitutional machinery in his State with his recommendation regarding the imposition of emergency. In case President's rule is imposed, the Governor shall act like the 'agent' of the Centre in running the administration of his State. The major argument dealt here is that the legacy of misuse and abuse of powers conferred under Article 356 is so devastating that the provision itself has become tainted. In the post-statehood era there were three different occasions when Article 356 was used which has been discussed as under:

a) **Case Study 1990:-** In 1990 when Barbosa Government collapsed, MGP staked its claim to form the Government but lacked the numbers. Meanwhile the Governor of Goa Khurshed Alam Khan rushed to Delhi for consultation with the Prime Minister Chandrashekhar to discuss on the political situation in Goa caused by the failure of the two claimants to power, namely- The Congress Democratic Front (CDF) and Progressive Democratic Front (PDF) to untie the 20-20 knot in Assembly.¹⁴The most honourable option before the Governor in order to uphold the democratic values was to recommend the President's Rule and holding of fresh elections for all the forty constituencies. Because ultimately it is for the people to decide who should govern them and not for opportunistic political leaders aspiring to form an alternative government on the basis of defections and at least of all the Governors who is not an elected representative of the people. Because any Government that may be formed would have been based on defections and any government based on defection is government against the mandate of the people.¹⁵Khurshed Alam Khan tried to explore all possibilities to have popular government in Goa rather than recommending President's Rule with dissolution of Assembly. There could be no denying the fact that the Government would have to spend a lot of money while conducting the mid-term polls in Goa in order to bring stability in the State. Then again the atmosphere in the country were not favourable for a clean political campaigning as there were more parties inclined to exploit communal differences than ever. In Goa too, the political developments had allowed communalism to surface, as was evident during language agitation.¹⁶Finally, the Governor of Goa recommended the Central Government for President's Rule and suspension of Goa Legislative Assembly as no group in the State assembly was able

to establish majority. Therefore there was a stalemate.¹⁷ The Union Government at its meeting on 14th December 1990 considered the State Governor's report and recommended to the President to promulgate Centre's Rule in the State. President's Rule was imposed in Goa and Assembly was kept under suspended animation on 14th December 1990.¹⁸ The President of India, R. Venkatraman, accepted the Cabinet's recommendation and promulgated Centre's rule in Goa. While the Governor and the Centre considered the President's Rule to be temporary solution to the political imbroglio. Nevertheless, the Governor would continue to explore possibilities of having popular government the assembly was kept in suspended animation. The game of horse trading continued with a vengeance. The action of the Governor could not be justified. He neither explored the possibility of an alternative Government nor dissolved the legislative assembly. He should not have taken upon himself the responsibility of assessing the majority. The Governor is not expected to find out whether the ministry would be stable or not; nor can he ensure the stability of Government. That should be left to the legislators. Since the MGP was the single largest party in House of 37 (after excluding the three legislators due to disqualification) and since it also enjoyed the support of three GPP legislators, the Governor should have invited the leader of MGP to form the Government and to prove the majority on the floor of the House.

The sentence of the supremacy in power was mandatory in Goa at 1990 and was legally confirmed. The PDF party was curtailed to be marginal post the MGP extracted its power and no other legal group or union was strong enough to form an ultimate ruling structure. There was no legal assurance in the region due to the rapidly altering faithfulness of legislators of the regional fundamentalists and this was making a negative mark in the history of an ideal, central democratic state. There were ample excuses for the coalition power to activate the presidential reign. The secondary rulers fairly inspected the legal condition of the place and made a statement to the head mentioning the discrepancies that are going on. Anyway, the dismissal of the regional congregation wasn't a wise verdict as it produced enormous option of betrayal from the MLA's.

b) Case Study 1999:-A movement of no-confidence was circulated in opposition to the committee of leaders as hardly any single group could create a reliable power in the region. Apparently, the role of the President's tenet was imperative

in Goa at 1999. The Congress party fueled by Luizinho Faleiro was reigning in Goa (1999). The administration failed due to no-confidence action in the governmental legislative body, the reason of its failing population standard, post the resignation of ministers twice. Nevertheless ultimately, none of the ruling party or the parties against it showed the certainty getting along in preponderance. As a result, the Governor, JRF Jacob, found nothing better than the president's rule. The amalgamating committee of powers guided by Atal Bihari Vajpayee (NDA) measured the internal governance statement and suggested the President to inflict his rules in Goa, thereby diluting the regional forum. President, K.R. Narayanan, announced the obligation of supremacy in Goa on 10th February 1999 that led to the fall of the internal body.¹⁹ Mandate of the Eight Assembly elections of 1994 not entirely supported the Congress party that achieved 18 seats in the process of choosing 12 MGP MLAs, four BJP MLAs plus three UGDP, in addition to triple self-dependents. Due to the inefficiency by the BJP supporters to create a ruling body because of the saffron party's uncertainties in sustaining Alemao's UGDP, Pratapsingh Rane had the audacity to bend himself to the mechanism by creating foresight in MGP to produce his space consisting of four alike perceptions. The execution of the plan was designed and it was reflected through his management regarding the entry of the three UGDP MLAs in Congress that would strengthen the office. The tiff and the hard work did not pay off for long as he was dethroned within a matter of 42 months by his individual assistant leader, Wilfred D' Souza the creator of Goa Rajiv Congress (GRC) in association with nine other heads to form an alliance along with MGP's contribution. The BJP expediently disregarded the objectives of law and assisted the rebellion, externally. The partnership was unable to last for more than his tenure because 4 members GRC fought with D Souza, to associate again with the congress and choose Luizinho Faleiro to be Chief Minister, supported by 21 members. However, D'Souza hardly gave a chance to him to rule for a quarter of the year, targeting at a single Congress MLA- Deu Mandrekar and other independent John Manuel Vaz who supported former Chief Minister D'Souza. Chief Minister Faleiro tendered his resignation to the Governor JFR Jacob.²⁰ The BJP made up their mind to be neutral and D'Souza lacked short of MLAs, It therefore restrained the choices of the power rather than announcing the President's rule and termination of the body.²¹

Governor Jacob said “to impose President’s Rule is the last resort and very difficult, unless there is no other alternative. These conditions did not exist in November 1998, they were obtained now. All the political parties were for dissolution and imposition of President’s rule and therefore it was much easier for me to recommend that the Article 356 be invoked.” (Barbosa, 1999). As the situation unfolded, President’s rule was the only alternative. Not just that no political party had the magic figure of 21 which gives them legal right to govern, but that the electorate was exasperated with the horse trading that preceded and followed the formation of every Government in the state since 1990.

- c) **Case Study 2005:-** The Manohar Parrikar coalition Government was reduced to a minority in January 2005 after resignation of four MLAs from the BJP and two ministers from the cabinet. Yet, in a controversial vote in the Assembly on February 2nd 2005, the Parrikar Government was declared to be in a majority, only to be dismissed some minutes later by the Governor S. C Jamir which has been observed above and Pratapsingh Rane of the Congress was sworn in as Chief Minister. Rane was given a month to prove his majority during which time another BJP MLA resigned from the party further reducing the numbers of the BJP, an independent MLA was disqualified and a petition was filed in the Supreme Court by Parrikar seeking redressal. On February 28, when Rane was to prove his majority, the Speaker and the Deputy Speaker resigned and the House was adjourned without any business being transacted. In order to keep the house functioning, Francisco Sardinha was sworn in as Pro tem Speaker by the Governor and Rane was asked to prove the majority on March 4th, 2005, though the BJP protested and demanded that Rane be staked as he didn’t have the majority. Congress got four more days to prove the majority and muster its strength. This time with their man as Speaker, Congress got to its tricks and a disqualification petition against UGDP MLA Matanhya Sandanha was filed before the officiating Speaker. ²²Whether, Sardinha in the capacity of a pro-tem Speaker had the authority to hear and decide on a disqualification petition was discussed widely and the Speaker passed an interim order restraining Saldanha from voting in the Assembly. This has been discussed in the previous Chapter. Sardinha announced this in the House on the day of the vote of confidence, drawing loud protests from the Opposition. The Speaker, however, stood his ground and put the motion to vote. In a House of 34 and one MLA restrained

from voting making both sides equal, the result was 16 for the motion and 16 against. Sardinha then cast his vote for the Government of that day and Rane survived. The BJP protested loudly and even attacked the Governor's convoy outside the Raj Bhavan gates. But the victory was short-lived. In New Delhi, the cabinet met and reviewing the situation decided to place the Goa Assembly under suspended animation and impose President's Rule.²³ For Congress the imposition of President's Rule came as a total surprise. Though the Assembly continued under suspended animation, the possibility of dissolution of the House was discussed. Union Home Minister Shivraj Patil admitted in the Lok Sabha that the Government would consider the demand for fresh elections however it never happened and the spell of President's rule was lifted after the bye-elections to the Assembly seats that were vacant. In this case the President's Rule was imposed in Goa in a peculiar circumstance. The Central Government dismissed its own Government and imposed the President's Rule in the state without Governor's report after Chief Minister Pratapsingh Rane won the controversial vote of confidence.

4.4 Major Observations & Findings

A critical analysis of the role and functioning of the Governor of Goa in context of party politics following major observations and findings are reported during this research work which are discussed as under:

i. Governor acting as agent of the Central Government

In recent times the position of the Governor has come under lot of criticism. On critical analysis of the role of the Governor one finds that Governors are acting on the directions on the political parties in power at the Centre. It has been observed that some of the Governors were not shy of revealing their partisan preferences. Governors most of the time due to fear of removal from the office, favour political parties in Centre and work as agent for them. For instance Governor S.C. Jamir who was veteran Congressman appointed by the UPA Government as Governor of Goa within few months of his appointment managed to dismiss the BJP led Coalition Government in February 2005.

B.R. Ambedkar said, “The Governor is representative, not of a party, he is the representative of the people as whole of the state.” Also, after a decisive scrutiny done on the position of the Governor it was discovered that the administrators act on the regulations prescribed by the law-making troops who are situated in the middle. Even if they are considered to be the legal leaders of the state but the attitude that they deliver is based upon the faithfulness that the governing majors have for the centralized head. Virtually Governor is imposed on the states and invariably works as the agent of the Centre.

ii. Tenure of the Governor

If one meticulously observes the tenure of the Governors of Goa in Pre-statehood and Post-statehood era, very few Lt. Governors/Governors have remained in office for the entire tenure. We may also come to the conclusion that their tenure were short lived. The framework of our nation has wielded Article 156 which states “the Governor shall hold office during the pleasure of the President.” In fact the term of the Governor is five years. Out of 13 Lieutenant Governors appointed during 26 years only three Lieutenant Governors have completed their tenure. In the post statehood era out of 19, 11 ex-politicians were appointed as Governors of Goa and only two could complete their entire five years terms. Some were removed while some were transferred.

iii. Partisan role in Hung Assemblies

The role of Governor has become crucial in the era of Coalition Government where no political parties secure absolute majority in the State Legislative Assembly. In such hung assembly situation Governor has to invite the leader of the political party having majority seats and ask them to prove the majority on the floor of the House within certain stipulated time frame. It has been observed in recent past that Governors has played partisan role in appointing Chief Minister giving them sufficient time for manipulating numbers and to prove majority on the floor of the house. This trend is one of the dangerous trends set by some of the Governors in India thereby creating serious threats to the Parliamentary Democracy affecting the dynamics of Party Politics. This partisan behaviour of the Governors have showcased their affiliation to the political party to whom they once belong or merely acting as an agent of the Political parties.

For instance in 1990, When the Barbosa Government was reduced to minority, Governor recommended the Central Government to keep the assembly under

suspended animation thereby giving an opportunity to the political parties for horse trading and manipulating the numbers and forming an alternative Government accordingly Congress Democratic Front formed the Government by splitting MGP. The role of Governors in hung assemblies came in for critical scrutiny with Supreme Court lashing out at the misuse of powers and politicization of the gubernatorial office.

iv. Arbitrary Removal of Governors

Since the Governor remains in office during the ‘pleasure’ of the President, it is clear that he may be transferred from one State to another or recalled (dismissed) by the President of India at any time on the advice of the Prime Minister. The recent trend is that the Governors are removed in States with change in the Central Government. Thus appointing the retired politicians or leaders who have lost the elections is appointed as the Governors of the State. There are instances when the Governors were removed when there was change in the Central Government. For Instance T. R. Satish Chandran retired Civil Servant and who served as the Principal Secretary to the Prime Minister of India during Deve Gaowda and Inder Kumar Gujral’s tenure was appointed as the Governor of the Goa soon after his retirement during Gujral’s tenure on 16th January 1998. Soon with the change in the Central Government in March 1998 with Atal Bihari Vajpayee as Prime Minister of India, Satish Chandran was removed from the position of Governor of Goa on 18th April 1998 and was replaced with J.F.R. Jacob who was a retired army man and was affiliated to BJP. Similarly Kidarnath Sahani who was appointed during NDA government as Governor of Goa was removed from the position when UPA government assumed at the Centre and was replaced with former Congressman S.C. Jamir. In short he knows it well that he may remain in office during the ‘pleasure’ of the President which, for all practical purposes, means the satisfaction of the Prime Minister. “In March, 1994 Bhanu Pratap Singh committed the error of dismissing the Chief Minister Wilfred D’Souza and appointing in his place Ravi Naik of the same Congress Party without taking into the confidence the ‘bosses’ of the ruling party at the Centre. The result was that after a couple of days, he and the new Chief Minister had to quit.” (Johari, 2004)

v. Governor's misleading reports to invoke emergency in the State

Article 356 of the Indian Constitution mentions that, Governor may report to the President of India regarding breakdown of constitutional machinery in the state with his recommendation regarding the imposition of emergency. It has been observed that the Governor while acting as an agent of the political party tries to manipulate the report for invoking President's Rule in the State. Many a times these reports are misleading. As pointed out by Balveer Arora in his article Political Parties and the Party System: the Emergence of New Coalition, "the central argument presented here is that the legacy of misuse and abuse of powers conferred under Article 356 is so overwhelming that the provision itself has become tainted beyond redemption." (Hasan, 2002) The legacy of persistent misuse and abuse has been amply documented for the Post Statehood Goa Politics, during which Article 356 was invoked three times. The root of the problem lies in the manner in which it was declared. President's Rule was invoked and the Assembly was kept in the suspended animation twice in 1990 and in 2005.

4.5 Conclusion

The office of Governor has been stuck in controversies for last several years in matters concerning their appointment, functioning and removal. From time to time, Governors of States have been accused of partisan behaviour and of acting as agents of the Political party or parties in power at the Central level. Some commentators have gone so far as to suggest doing away with the institution of the Governor. A dispassionate analysis of the relevance and role of the office would showcase that it is one of the dignified, responsible and has continuing relevance. The Governor was envisaged on the one hand as the constitutional head of the State and on the other as the representative of the Union and the State, to act as the eye and ears of the Union and to generally ensure on behalf of the union that the Government of the State was carried on in accordance with the Constitution and particularly to see that the interests of the Union were safeguarded. In the context of many fissiparous tendencies now and then raising their ugly heads, the office of the Governor become even more relevant and important. Any misuse of the high office by some unscrupulous holders could constitute no argument for its abolition. If constitutional

offices begin to be scrapped because some of their occupants indulged in unbecoming conduct, very soon hardly anything would be left.

While examining the changing dynamics of Party Politics in Goa, the role of Governor in the Post-Statehood era is crucial and an important one. The office of Governor has been misused and abused by the Political Parties in power at the Centre as an instrument for controlling State politics by exploiting its tenurial insecurity, party loyalty or through pandering his ambition. It is better for the Country in long run to respect and to let Governor act on his sagacity and sound judgment. The actions of some of the Governors in the state politics of Goa have proved to be damaging the essential federal structure of India. In short the negative image of the State Governors as above all ‘an agent of the Centre’ has proved difficult to erase in minds of the people.

The Governors are basically outsiders to the dynamics of local politics. The craze for power by political parties and the one-point programme to retain it by hook or by crook have told upon the institutions in India over the years. Even the institution of Governor has come to be tainted by the affairs of the Party Politics. Political morality cannot be episodic in nature. The Political parties are known for destroying the institutions and, in this case, they are destroying the institution of Governor’s office which will be dangerous to the parliamentary democracy.

True to the spirit of federalism enshrined in the Indian Constitution, the Centre should function in tandem with the states to address inter-state disparities and the Governors should work harmoniously with the State Government. The urgent necessity for the depoliticisation of the post of the Governor reminds one of a famous quote by the Roman satirist Juvenal, though it is taken from a slightly different context: “who will guard the guards themselves?” when discretion becomes synonymous with arbitrariness, when the office of Governor lacks checks and balances and the will of the people is brutally trampled upon, the civil society is impelled to frame the Juvenalian question: Who will govern the Governors?”²⁴

An attempt is made in this chapter to understand the functioning of the role of Governor and the controversies that revolved around the institution of Governor in context to the following three powers as envisaged upon him by the Constitution of India. Article 164- pertaining to the appointment and dismissal of the Government, Article 174 (2) (b) - regarding dissolution of Assembly and Article 356 recommendation for imposing

President's Rule in Goa. These three powers and functions of the Governor has been widely criticized in recent times and the case studies showcasing the politicization of the Institution of Governor by the dynamics of party Politics in Goa are discussed in this Chapter.

Exhibit 4.3
President's Rule over Goa 1963-2012

| Sr. No | Date of Implementation | Date of revocation | Reasons/ Justifications | Name of the Governor of Goa | Prime Minister |
|--------|------------------------|--------------------|--|-----------------------------|----------------|
| 1 | 02/12/1966 | 05/04/1967 | Chief minister resigned for free and fare opinion Poll to decide the future of Goa | K.R. Damle | Indira Gandhi |
| 2 | 27/04/1979 | 16/01/1980 | No confidence motion against the ministry was passed and political defection | P.S. Gill | Morarji Dessai |
| 3 | 14/12/1990 | 25/01/1991 | It was constitutionally justified as the government was reduced to minority but it was misused to dislodge the duly elected state Government ruled by a political Party/coalition other than the party in power at the centre. | Khurshid Alam Khan | Chandrashekhar |
| 4 | 10/02/1999 | 04/06/1999 | It was constitutionally justified as the no-confidence motion was passed against the government | J.F.R. Jacob | A.B. Vajpayee |
| 5 | 04/03/2005 | 07/06/2005 | It was constitutionally justified as the no-confidence motion was passed against the government and there were political defections too. | S.C. Jamir | Manmohan Singh |

Source: Compilation from various local newspapers and Government Gazettes

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- ¹ The Navhind Times, 4th December 1966, '*Assembly Dissolved by the President*', Pp. 1
- ² The Navhind Times, 29th April 1979, '*President's Rule imposed in Goa*', Pp. 1
- ³ The Navhind Times, 25th May 1990, '*Barbosa bid to form Govt. faces hurdles*', Pp.1
- ⁴ The Navhind Times, 25th May 1990, '*Governor's Dilemma*', Pp.1
- ⁵ The Navhind Times, 30th July 1998, '*Governor ends three days of political confusion by dismissing Rane Ministry*', Pp. 1
- ⁶ The Navhind Times, 30th July 1998, '*Rane to seek legal opinion*', Pp.1
- ⁷ The Navhind Times, 31st July 1998, '*Opposition demands recall of Governor*', Pp.1
- ⁸ The Navhind Times, 8th August 1998, '*Making mockery of Anti-Defection Law*', Pp. 6
- ⁹ The Navhind Times, 20th November 1998, '*Narvekar sacked; two other ministers resign*', Pp.1
- ¹⁰ The Navhind Times, 27th November 1998, '*Luizinho sworn in CM after Willy Quits*', Pp.1
- ¹¹ The Navhind Times, 9th March 2005, '*Credibility of Governor's Office is at Stake*', Pp. 3
- ¹² The Economic Times, 1st April 2002, '*Goa Cong files plea against ordinance*', Pp.1
- ¹³ Outlook, 2nd August 2002, '*HC dismisses petitions challenging dissolution of Goa assembly*', Pp. 1
- ¹⁴ The Navhind Times, 12th December 1990, '*Khurshed for Delhi to Discuss Goa's Stalemate*', Pp. 1
- ¹⁵ Herald, 15th December 1990, '*The only Honourable option*', Pp. 2
- ¹⁶ The Navhind Times, 13th December 1990, '*Decision on Goa likely Today*', Pp.1
- ¹⁷ Herald, 11th December 1990, '*Rivals tied, Central Rule imminent*', Pp.1
- ¹⁸ The Navhind Times, 15th December 1990, '*Goa Comes under President's Rule*', Pp.1
- ¹⁹ The Navhind Times, 11th February 1999, '*Goa Placed under President's Rule*' Pp. 1
- ²⁰ The Navhind Times, 11th February 1999, '*Centre recommends President's Rule in Goa*', Pp. 1
- ²¹ The Navhind Times, 12th February 1999, '*Governor promises better administration for Goans*', Pp. 1
- ²² Goa Today, April 2005, '*Guv gets Going*', Pp. 10-13
- ²³ The Navhind Times, 5th March 2005, '*Centre imposes President's Rule in Goa*,' Pp.1
- ²⁴ The Hindu, 18th July 2018, '*Governing the Governors*', Pp, 1

Chapter Five

Conclusion

An elucidation of Party Politics in Goa should originate with an understanding of the character of political parties in democratic systems. Parties are undoubtedly crucial to the working of democracy; they perform diverse functions within and outside the realm of politics. Their leadership and policies, internal practices, and the pattern of interaction with other institutions can have deep consequences for the system of governance. Party Politics in Goa has evolved over the period of time and has numerous features which reveal the blending of Portuguese colonial and modern Indian form of organizations and participatory politics with indigenous practices and institutions. The development of party Politics in Goa is a product of two major factors; firstly the historical antecedents which provided for a base for the post-colonial Goan Politics and second pertains to the role of social cleavages and political mobilizations. These two factors are discussed below.

5.1 Historical Antecedents as a factor influencing the dynamics of post-Colonial Goan Politics

We had some notion of the historical and institutional experience through which Goan society has passed, the ideological and technological influences to which it has been subjected, and its peculiar modes of responding to such incentives. As pointed out by Rajni Kothari, “Political democracy, wherever it has succeeded, has been the product of a combination of contexts and processes. It is in distinctive traditions, the adaptive capabilities of a given social and normative systems, external impacts, and the historical conditions under which a new pattern of responses is generated and institutionalized that the democratic propensities of individual nations have found shape.”(Kothari, 1970)

Post-Colonial Goan politics is a product of a variety of influences spread over a long period of time. Three important historical strands stand out distinctly as substantial influences: Firstly the Portuguese Colonial yokes, secondly the Uniform Civil Code and thirdly Goa’s Struggle for freedom. *Goa is the smallest territory ruled by the smallest colonial power which held on to it longer than any other. Yet it was the first subject*

'nation' to raise its voice against political slavery and alien domination in the sixteenth century when the world had not even dreamt that it was possible for conquered people to revolt against their political masters with a view to overthrowing them- Sarto Esteves(Esteves, 1986).This aspect of political history of Goa is not known to many. Yet it is a historical fact for the understanding of the political history of Goa, it is necessary to understand Goa's unique colonial, cultural, ethnic and linguistic heritage.

Before the conquest of Goa by the Portuguese the Goan society was subject to a long experienced in political system under the ages of the Ancient *Mauryas* followed by Medieval *Kadambas* and Hindu *Vijayanagara* and Muslim Kingdoms of *Bahamani* and *Bijapur* and the Maratha rulers.Political systems do not spring up like mushrooms. They are built on the foundations of the past. Although the Islamic polity differed greatly from the Hindu polity, when the Muslims invaded Goa they met a predominantly Hindu society long scheduled in the Ancient Indian polity, the root principle of which was that every function of the state had to be conditioned by and subordinated to the need to preserve the both society and the state.(Aiyangar, 1935)

The Muslim rulers were therefore obliged to adjust themselves to the realities of the situation by breaking away from the political orthodoxy (Sharma, 1951). The pattern of Political System that emerged due to the inter play of several influences, Ancient and Medieval, Hindu and Muslim, on the eve of Portuguese Conquest of Goa, was not characteristics of any particular type. The continuous onrush of people of different races with different languages and culture for several centuries must have shaped the modern Goa. The political domination of Goa was equally repressive. East is said to have fostered what is called oriental despotism. It is true East produced despots. But they were benevolent. In 1510, the Portuguese conquered Goa and made subtle efforts to 'Lusitanise' the people. They destroyed the local customs, traditions and imposed on the people a foreign language. They forcefully converted the people to Christianity, destroyed their temples and prohibited non-Christian festivals. The effects of this forceful implantation T.B. Cunha termed as the 'denationalization' and the 'denaturalization of the Goans'. But as time passed the Descendants of the Hindu converts lost their Hindu lineage and came to acquire a conviction of the superiority of the blend that was produced by the forceful and unnatural meeting of the east and the west. In time this confluence of the ancient culture with the western culture produced a kind of cultural mosaic with marked distinctiveness and an identity of its own(Rodrigues, 2008).The Portuguese Conquest of Goa brought

about unprecedented changes in the Social and religious life of Goa. The Portuguese enclaves in India would have been integrated with British India in which case the impact of foreign rule on Goa would have been slightly different.

It is true that Nationalism in Goa, especially in the 19th century was more associated with autonomy than with outright independence or integration with the rest of India. This can be easily understood since the British India itself still remained a colony of another foreign power, and concerted claims for its independence were yet to be advanced. In other words, the people of the Estado da India were fighting for their rights-autonomy or independence- well ahead of the people in British India, in the expectation that they would achieve what the rest of the country was yet to deliberate on. Catholic Goans proved to be truly nationalists and produced great leaders.

Goa remained a Portuguese colony until 1961, much after India had attained its independence from the United Kingdom; however the struggle for liberation in the twentieth century began as far as 1928 when T. B. Cunha, a French educated Goan engineer founded the Goa Congress Committee. In 1938 Cunha with his colleagues of the Goa Congress Committee met Subhash Chandra Bose, the President of Indian National Congress, and on his advice established an office in Mumbai. The Goa Congress was made an affiliate of the INC and Cunha became its President. Anti-Colonial movement gained momentum when the Socialist leader Dr Ram Manohar Lohia arrived in Goa and led satyagraha on 18th June 1946 which marked the beginning of the Goa's Struggle for Liberation. Goa witnessed series of satyagraha thereafter against the oppressive rule of the Portuguese Government and finally after the intervention of the Indian Government in 1961, December under the banner of Military Operation Goa was liberated on 19th December 1961.

It is understood that Goan society was considerably more politically sound in the 19th- 20th Century than any other colonized society as Goans were more thoughtful in understanding the western concept of Parliamentary form of Governance. Participations in the electoral politics in the 19th Century led to the production of intellectual and a patriot like Francisco Luis Gomes who vociferously opposed to all forms of tyranny and exploitation of people and was clearly influenced by the liberalism. Truly a nationalist and his unflinching patriotism, his sentiments and at times romantic temper and his poetic rhetorical diction reveals about his intellectual nature- *"I was born in India, cradle of*

poetry, philosophy and history, today it's a tomb. I belong to the race which wrote the Mahabharata and invented chess- two conceptions that bear in them the eternal and the infinity."

Although franchise was restricted only to the Catholics, but it was extended to the Hindus in 1910, Goans learnt the electoral process during the colonial era, but they were not based on democratic principles. In all these elections caste played a significant role and dominated the Goan polity right from the early days of electoral politics which is evident in post-colonial Goa. Bi-polar conflict between *Partido Indiano* and *Partido Ultramarino* in the 19th Century witnessed the Goan Bamon-Chardo (Brahmin-Kshatriya) casteist politics. All these events in the socio-political history of colonial Goa had deep rooted impact on the post-Colonial Goan Polity, hence understanding the Colonial Polity of Goa is an utmost importance for the understanding and debating post-colonial Goa. The aftermath of the Second World War saw the gradual dismantling of Colonialism and colonial empires that left behind a legacy of post-colonial cultures in Goa. This was a fusion of original culture of the colonized people with that of the colonizers creating a 'novo-culture' the aim of which was often to advance the colonial agenda of the colonizers.

5.2 Social Cleavages affecting Party Politics in Goa

There have been major debates among scholars about the significance of language, class, caste, community and ethnic identity conflicts in Goan society and politics. Conventionally, political discourse on ethnic categories had focused on language and region. After liberation, over the question of identities, two opposite views dominated the Centre-stage- one for merging Goa with Maharashtra and the other to maintain separate identity for Goa. The Post-colonial Goa basically had three major issues which has shaped modern Goa and these issues are always been used by the political parties to gain power in the State politics. The issue of identity which has been haunting the people of Goa since the liberation is one of the pivotal issue in Goan politics. Secondly the issues of the Non-Brahmin Hindu communities of being marginalized for centuries has resulted in caste politics in Goa and the undercurrents are so strong that it has resulted in changing dynamics of Goa's Party Politics. Thirdly the question of official language of the people has been still a debatable issue. These three issues have been used a political tool by the political parties in every elections in Goa.

5.2.1 Identity Politics

The situation prevailing in Goa at dawn of liberation was delicately poised. The pains of transition from a colonial to a post-colonial democracy proved to be more problematic for the Indian State than was anticipated on the eve of the Indian Army occupation of Goa in December 1961. The Indian Army occupied Goa at a time when its economy was insulated against the impact of economic trends across its borders and was supported by colonial policies designed to achieve self-sufficiency and expand overseas trade. This resulted in different reactions from various segments within the Goan population. In spite of the fact that Portuguese colonial power, since the overthrow of republic, was resting on increasingly fragile grounds, the landed elite still aligned themselves with the colonial administration; the profiteering merchants who found the situation the most favourable, were still dependent on the Portuguese for a political umbrella. On the other hand, there was the increasingly exploited, but not quite organized, class of rural laborers for whom oppression was defined by the presence of the exploited *Bhatkar*, irrespective of whether Goa was still under colonial domination or was integrated with Independent India. Portuguese colonialism has left behind different perceptions and outlooks which characterized different sections of Goan Society. Firstly there was a well-established merchant class which had grown dramatically during the last two decades of colonial rule, but played a very minor role in the politics of Goa. Secondly there was the rural landed elite which saw its political influence eroded along with the exit of Portuguese; thirdly, an emergent petty bourgeoisie; and finally, the majority i.e. the agricultural laboring class which was politically and economically marginalized.

Unlike in India where anti-colonial sentiments led to the emergence of the INC, in Goa the political alliances that emerged in the post-colonial period were vastly different. After the departure of the Portuguese, Goa's status within larger Indian nation-state became an issue of debate. Three options were already on the frontline for Goa including independence, status of Union territory, and statehood within Indian Union. This list of options was expanded with fourth option, namely, merger with Maharashtra. The latter emerged as a response to the political developments in Goa just before the first general elections to the Goa Daman & Diu Legislative Assembly. The Maharashtrawadi Gomantak Party (MGP) that came to power after liberation was a product of caste politics within Goa's Hindu population. The United Goans Party (UGP) was at first instance a

liberal reaction to the politics of the MGP; however given its predominantly catholic electoral support, it soon came to be equated to a catholic reaction to the Hindu dominated MGP. Even though both parties had well defined electoral support bases, they constituted unstable politics within an emerging society. Stability of electoral support established through caste allegiances and communal affiliations eventually overshadowed class interests.

A crisis of identity had always existed in the Goan to varying degrees; however, there was an intense difference between the Catholic and the Hindus in Goa, as well as those from South Goa versus the North. This identity crisis remained deeper and stronger in the Hindu population, which identified with India; whereas it was less evident in the majority of the Catholic population of the upper castes, who over the years adopted the Portuguese-European culture through occidentalization and looked to Portugal as the fatherland. However, the same, cannot be said of the Catholic peasant under feudalism. It needs to be pointed out that the vast majority of the people of Goa did not feel or profess that they were Portuguese, culturally. They were, rather, singularly Goan. Undoubtedly, there is unique Goan (Indo-Portuguese) culture that is common to both Hindus and Catholics but with different trajectories. That identity is the product of Portuguese domination for 450 years that gave Goa its distinct culture, its common civil code, folk culture and many age old customs that had existed before Portuguese arrival including the very idea and construct of the Village communities called *Comunidades* and earlier *Gaunkari* system.

Initially catholic elite viewed liberation as a threat to their cultural identity and practice (Rubinoff, 1997). From the initial stage itself, Nehru recognized Goa's 'distinctive personality' as a product of 450 years of conditioning by Portuguese colonial yoke. Based on this, some members of Goa's Catholic elite demanded independence for Goa before United Nations (Trichur, 2013), while a few others challenged Indian sovereignty in the courts (ibid). Considering the apprehensions voiced by the Goa's Catholic population, both inside and outside Goa, the internationalization of the issue and the hostile reaction from the west to Goa's liberation, the integration of catholic community was viewed as having primary importance. The Indian State's recognition of Goan society's distinctive personality, supposedly influenced by Portuguese colonial rule, was not received enthusiastically by some sections in Goa, particularly the Hindus (Priolkar, 1967). While the Hindu Brahmin mercantile elite were uncomfortable, the non-Brahmin Hindus viewed it differently. As far as these Hindu non-Brahmins were

concerned, liberation was viewed as meaning more than just freedom from colonial rule; it was closely related to the displacement of Catholic cultural hegemony and Brahmin dominance. The issue of Goa's merger with Maharashtra was touted by the MGP as a strategy to defuse the dominance of Brahmin caste in Goan society. The MGP came to power in Goa by articulating the concerns of these non-Brahmin communities of Goa while sidestepping issues of identity and class conflict. Formed with the avowed objectives of fighting the elections on the merger with Maharashtra platform, the MGPs policies failed to acknowledge Goa's cultural and historic specificity. They echoed the colonial argument that Konkani was a non-language, and merely a dialect of Marathi. However, operating in an increasingly capitalist national and global environment, class conflicts surfaced time again and ultimately eroded the position of the MGP. The most significant instance of such an occurrence was the defeat of the MGPs call for Goa's merger with Maharashtra in the Opinion Poll conducted in January 1967. The merger with Maharashtra was rejected, and Goa continued as Union Territory until 1987, when it was granted statehood. These events brought about substantial polarization among Goans; however, there was no violence evident. On the whole, the people of Goa adjusted to the new realities and Goan culture stabilized thereafter until 1980s without further evolution when the demand for statehood gained momentum and the question of language started haunting. Every political party tried their level best to make use of these issues to attract vote bank.

5.2.2 The Institution of Speaker & Governor

While analyzing the dynamics of Party Politics in Goa one can witness the partisan behaviour of these institutions on several occasions in the political history of Goa.

The Anti-Defection law is clear that the question of disqualification or otherwise under the Tenth Schedule is to be decided by the Speaker. The Courts have only the power of judicial review. It is an established precedent that the Speaker as the head of Legislature and being a constitutional authority is not amenable to jurisdiction of the Courts. However, this applies in respect of the conduct of legislative business where the Speaker is supreme and final authority. However, in areas wherein the Speaker is expected to function as a quasi-judicial authority under the Tenth Schedule, it would definitely invite judicial review and the Office of the Speaker cannot claim any special privilege. We have observed that

the quasi-judicial authority of the speaker and the decisions given by the Speaker while deciding the defection cases of similar nature were never been the same. The office of the Speaker has become partisan to protect or safeguard the power of the political party to whom he belongs. This partisan behaviour has also been observed by the judiciary too on several occasions. Such observations by judiciary on the democratic institutions for their biased behavior have systematically destroyed the spirit of Democracy.

Similarly the institution of Governor has come under lot of criticism regarding their appointment, their role in appointing the Chief Ministers and dismissing the governments, their role for imposing President's rule and for dissolving the Legislative Assembly. It has been seen that the trend in Indian politics is to appoint the retired politicians or retired bureaucrats having political affiliations to the political party in power at the union level as Governors of the State. These political affiliations have inclined partisan behaviour of the Governor while appointing the Chief Ministers or dismissing the Government. For instance in 1994 Governor Bhanu Pratap Singh dismissed the Chief Minister Wilfred de Souza and his government without having lost the majority and appointed Ravi Naik as Chief Minister of Goa. This behaviour brought the office of Governor into disrepute.

It is obvious that the ruling party at the Centre used the Article 356 for political purpose rather than for restoration of the constitutional government in the State. The Office of the Governor was mainly used under this Article to serve the interests of the ruling party at the Centre and the imposition of President's rule had become a normal feature. The analysis of the discretionary powers of the Governor reveals that under such circumstances many a times Governor acted as the agent of the Centre.

It is a fact that the democratic political institutions such as Speaker and Governor are seen inclining towards their political affiliations or the political party to whom they belong too. Political parties are seen distorting these institutions.

5.3 MAJOR FINDINGS AND OBSERVATIONS

Upon careful investigation of the primary and secondary sources related to the present study of Party Politics in Goa following major observations are noticed which are briefly discussed below:

1] Centripetal movement of Power of political parties

The gradual movement from centrifugal to centripetal politics of the state led to the attainment of statehood in 1987 was the turning point in the annals of political history of the territory. The attempt to create a centralized system thus proved unsuccessful- centralization without an institutionalized corpus through which the Centre could operate and establish its writ and authority. The decision making by representatives, in and around Goa, now has to contend with another level of veto, the party high command in Delhi to whom appeals are made, endorsement sought and whose authority gets invoked to settle party disputes. In centripetal politics, the individual politicians with his chain of networks and loyal supporters and economic interests becomes the center.

2] The rise of BJP

One of the major reasons for the emergence and development of BJP in Goa is the increasing organizational base of the political party in Goa. The increasing base of the party's cadre was mainly due to the two factors- the Charisma of its leader Manohar Parrikar and the techniques of mass mobilization adopted by the BJP in Goa. For the BJP's fortune to rise it required strong political yeast. That yeast was MGP- a Hindu oriented party, its cadre had found resonance in the Ayodhya campaign and the pro-Hindu issues raised by the BJP nationally. The MGP leadership was worried as a coalition with BJP would pose threat to their vote Bank and BJP would engulf their voters. Although a coalition with MGP would help BJP to consolidate the Hindu vote but the MGP leaders also rightly feared that if BJP were to be given a little more leeway it would be only to the detriment of their own party. The dynamics were in many ways similar to the Shiv Sena's relationship with BJP in Maharashtra in early 1990's. It is a matter of deep study and investigation that within two decades the BJP swallowed a sizeable number of supporters from the regional outfits in Goa and seared its own brand nationalistic politics.

3] Constitutional Institutions are used by the Political Parties

The dynamics of party politics has greatly affected the democratic institutions such as the office of Speaker and the office of Governor. The Speaker who is considered as an adjudicatory authority in deciding defection cases in the legislative assembly has greatly been targeted for being biased and has inclined towards the party to which he belongs. Extensive misuse of power was observed during this period by the Speaker of the legislative Assembly in deciding the disqualification petitions filed against the defectors,

in order to save a particular government to which the speaker belonged to, or to bring down a particular government.

Similarly the constitutional role of Governor was also misused in the post-statehood era in appointing chief minister, in dismissing certain governments, in imposing emergency in the state and suspension of assembly which encouraged the horse-trading.

4] Role and Dominance of the Church over the Politics of Goa

The Roman Catholic Church plays an active role in influencing the socio-economic ethos of Goa. Its position is often accepted by the majority community, the government and the political parties without compromising the principles of peaceful co-existence. In the post-colonial Goa, the church saw a drastic change in its character. During colonial era, the Church in Goa had been aligned with the ruling class and supported the colonial government. With liberation the Portuguese clergy was replaced with Goan and plans were made for a more dynamic church. If one scrutinizes the role of church's stand on social and political issues, one can distinguish a shift from narrow vision of supporting catholic interests to something which is broader and concern society at large. Supporting the United Goans Party in 1963 and adopting a strong stand against the merger with Maharashtra could be construed as being guided by the interests of the Catholic upper classes. But championing the cause of the Ramponkar's agitation, the fight against the regional plan and Special Economic Zones indicated a broadening of the vision of the Church. "The Church had become an effective check on the Government, it is an institution which the Government respects and listens to, though not always willingly." (Barbosa 64)

The two United Goans Party factions later split further and more of their members regrouped and joined the Congress party by 1979. By 1980 Congress had a sizeable catholic legislators and church thus changed tack accordingly, from supporting the United Goans Party, their support switched to the Congress. Corruption by Congress politicians, and the fact that catholic politicians in government were concerned only with feathering their own nests made the church consider the BJP as an option. The main reason why the church withdrew their support from the congress, was the fact that the Catholics in Goa do not see the BJP as a threat. Even the RSS cadres in Goa are not seen as being hardliners like their counterparts in other states in India and therefore the political analysts like Peter de Souza terms it as 'soft hindutva'

6] Challenges of internal Party organization

The party system in Goa faces serious organizational challenges. At the grass-roots, political parties have very weak and fluid structure. This has resulted in a 'top-down' rather than 'bottom-top' organizational and power arrangement. Most political parties are afflicted by a lack of internal democracy. As a result, the core leadership of the party is central to decision making within the party. This has resulted in the emergence of influential and powerful political dynasties in most political parties. A natural corollary is the frequent splits in parties largely caused by personality clashes and differences within the leadership. It is thus astonishing, that in the citizen's trust of political institutions, political parties find themselves at one of the lower rungs.

7] Caste plays an important undercurrent in Goa's Politics

The Bhandari Community, constituting around 30% of the Bahujan Samaj notified under Other Backward Classes, plays a decisive role in Goa's electoral politics, followed by the Kshatriya Maratha Samaj. Besides these two, the scheduled tribes constituting over 12% of the state's population have been politically active and their might was witnessed during the tribal agitation at Balli in 2011. The Kshatriya Maratha Samaj is not as powerful as the Bhandari samaj in terms of influencing the electoral politics as its voters are fragmented across the state. Political Parties in recent years have understood the caste identity politics in the elections. Therefore they are trying to institutionalized by forming the internal organizational wings on the caste basis. BJP has a dedicated OBC cell.

5.4 FUTURE SCOPE FOR THE RESEARCH

The study on Party Politics in Goa opens the forum for the analysis of political parties, including their historical development, structure, policy programmes, ideology, electoral and campaign strategies and their role within the various national and international political systems of which they are a part.

5.5 LIMITATIONS

The major limitation to the present study is the dearth of secondary sources for establishing facts. Therefore the present study is based more on the primary sources which include the factual data from the newspapers and interviews. Party Politics in Goa is a vast research area, it was too complex to study each political party and its functioning

separately. Due to paucity of available data on the political parties the study is presently dealt with the phases of party politics in Goa.

5.6 VALIDATING HYPOTHESIS

Validating hypothesis say political parties which is an informal institution is distorting the other significant democratic political institutions by making them inclined towards partisan politics. This has been illustrated by analyzing various defection cases that were filed before the Speaker of Goa Legislative Assembly and the extensive misuse of power and authority in matters of disqualification petitions by the Speaker in order to save a particular government to which he belonged. Similarly the role of Governor in dismissing a particular Government without proper procedure being followed are examples which testify that the democratic political institutions are affected by the dynamics of party politics in Goa. Secondly this research has proved that casteism, linguistic assertion and social hierarchy has substantially influenced party politics in Goa. The rise of caste politics has contributed to the institutionalisation of caste in politics. Political parties often use caste as a tool for social change. Caste politics is used by the political parties to gain vote bank and use caste as an instrument for gaining power. Caste politics in Goa is always a subtle. Similarly language has always been used as a political weapon by all the political parties in Goa since liberation over official language of Goa and medium of instructions in school have always been the question of political mobilization.

Bibliography

- Aiyangar, K. (1935). *Some aspects of Ancient Indian Polity*.
- Almeida, J. C. (2013). *Goa: Administration and Economy before and after 1962*. Panaji : Broadway Publishing House, Goa.
- Angle, P. (1983). *Goa- An Economic Review*. Mumbai: The Goa Hindu Association.
- Barbosa, A. M. (1999, June). Adversaries in Alliance? *Goa Today*, 22-23.
- Barbosa, A. M. (1999, July). Congress returns; Assembly Polls 99. *Goa Today*, 14-18.
- Barbosa, A. M. (2005, April). Guv gets Going. *Goa Today*, 10-13.
- Barbosa, A. M. (2006, March). Replay of Political Voudeville: A blow by blow account of the long drawn out tussle for power in Goa. *Goa Today*, 10-17.
- Barbosa, A. M. (2007, September). Foul Bid foiled. *Goa Today*, 34-39.
- Belekar, S. (2009). *Itihasachi Pane Chalataana: Collection of articles on proceedings of Goa legislative Assembly: 1963-1980*. Panaji : Navarang Prakashan.
- Belekar, S. (2011). *Avalokan (Collection of articles on some Ex-MLAs of Goa Legislative Assembly depicting their work in Assembly)*. Panaji: Navrang Publishers.
- Belekar, S. (2016). *Govyatil Nivadnuka (Vidhansabha va Loksabha 1963 te 2014)*. Verla Bardez: Zagar Prakashan.
- Belekar, S. (2017). *Govyala Ghatak Rajya Kase Milale*. Panaji : Navarang Prakashan.
- Cassinelli, C. W. (1969). *The National Community*. Polity 2.
- Chakrabarty, B., & Pandey, R. K. (2008). *Indian Government and Politics*. New Delhi: Sage Publications India Pvt. Ltd.
- Correia, L. (2006). *Goa: Through the Mists of History, from 10000 BC-AD 1985: A select Compilation on Goa's Genesis*. Panaji : Maureen Publishers.
- De Souza, J. (2010). *The Goan Voice of Reason*. Panaji: Broadway Publishing House.

- Desouza, P. (1999, August September). Pragmatic Politics in Goa, 1987-99. *Economic and Political Weekly*.
- DeSouza, P. R. (2006). *Political Nomadism and the Party System in India: The struggle between the Fence and the Field* (Vol. India's Political Parties). (P. R. deSouza, & E. Sridharan, Eds.) New Delhi: SAGE Publications India Pvt.Ltd.
- Dias, B. (1991). *The Office of Speaker*. Quepem Goa: Government College of Arts & Science, Students Consumers Co-operativbe Society, Quepem Goa.
- Duverger, M. (1963). *Political Parties: Their Organisation and Activity in Modern State*. New York: Wiley.
- Esteves, S. (1986). *Politics and Political leadership in Goa*. New Delhi: Sterling Publishers Private LTD.
- Fernandes, A. (1997). *Cabinet Government in Goa 1961-1993 A Chronicled analysis of 30 years of Government and Politics in Goa*. Panaji: Maureen and Camvet Publishers Pvt. Ltd.
- Fernandes, A. (2003). Goa's Democratic Becoming and the Absence of Mass Political Violence. In C. Goirand, *Lusotopie, n 10 Violence et controle de la violence au Bresil, en Afrique et a Goa* (pp. 331-349). Karthala.
- Fernandes, A. (2008). Goa's Democratic Political Institutions at the turn of the Century. In P. Malekandathil, & R. Dias, *Goa in the 20th Century History & Culture* (pp. 318-335). Panaji, Goa: Institute Menezes Braganza.
- George, E. (1969, May 18). Goan Parliamentarians-4: Partido Ultramarino. *Navhind Times*.
- Gokhale, N. A. (2021). *Manohar Parrikar Brilliant Mind Simple Life*. New Delhi: Bloomsbury Publishing Pvt Ltd.
- Gomes, O. J. (2004). *Goa*. New Delhi: National Book Trust, India.
- Gomes, O. J. (2010). *A Concise History of Goa*. Panaji: Directorate of Official Language.
- Halappa, G. S., Rao, K. R., & Rajasekhariah, A. M. (1964). *The First General Elections in Goa*. Dharwar: Karnatak University.

- Hasan, Z. (2002). *Parties and Party Politics in India*. New Delhi: Oxford Univeristy Press.
- Johari , J. C. (2009). *Principles of Modern Political Science* (Second ed.). New Delhi: Sterling Publishers Private Limited.
- Johari, J. c. (2007). *The Constitution of India A Poliyico-Legal Study* (Fourth Revised and Enlarged Edition ed.). New Delhi: Sterling Publishers Private Limited.
- Kashyap, S. C. (2007). *Our Constitution An Introduction to India's Constitution and Constitutional Law* (Fourth revised Edition ed.). New Delhi: National Book Trust, India.
- Kashyap, S. C. (2011). *Anti-Defection Law and Parliamentary Privilages*. New Delhi: Universal Law Publishing Company.
- Kothandaraman, R. (2002). *Governor's Addresses to Goa Legislature January 1964 to January 2002*. Porvorim: Goa Legislature Secretariat.
- Menezes Rodrigues, P. (2000). Emeregence of a Goan Elit of Intellectuals (1890-1926). In C. J. Borges, O. G. Pereira, & H. Stubbe, *Goa and Portugal History and Development* (pp. 197-215). New Delhi: Concept Publishing Company, New Delhi.
- Nag, k. (2014). *The Saffron Tide*. New Delhi: Rainlight Rupa Publications Pvt. Ltd.
- Nainta, R. P. (1992). *Governor under the Indian Constitution*. New Delhi: Deep & Deep Publications.
- Narayan, R. (1994, April 20). Politicians of all Hues. *O Herald O*.
- Narayan, R., & D'cruz, S. (2011). *Triumph of Secularism: Battle of the Opinion Poll in Goa*. Panaji: Goa Publications.
- Noronha, F. (1999, July 24). Goa Elections: Politicians Disappoint Again. *Economic and Political Weekly*, 2062.
- Patil, S., & Nagvenkar, M. (2020). *An Extraordinary Life A Biography of Manohar Parrikar*. Gurgao ,Haryana: Penguin Random House India.
- Pinto, C. (1996). *Goa Images and Perceptions studies in Goan History*. Panaji: Prabhakar Bhide Rajhauns Vitaran.

- Porobo, P. (2015). *India's First Democratic Revolution*. Orient Blackswan.
- Prabhu, W. S. (2021). *Manohar Parrikar off the Record (Political Memoir)*. Caranzale Goa: Waman Prabhu.
- Prabhudesai, S. (2014). *Clear Cut Goa behind the Glamour*. Panaji: Broadway Publishing House.
- Prabhudesai, S. (2022). *Ajeeb Goa's Gajab Politics Goa Elections: A Perspective*. Panaji: Goa: goanews.com.
- Priolkar, A. K. (1967). *Goa Rediscovered*. Bombay: Bhaktal Books International.
- Radhakrishna, V. (1993). *Muktinantarcha Goa*. Panaji: Rajhauns Publications.
- Radhakrishna, V. (1995). *Maharashtrawadi Gomantak Paksha: Sthapana aani Vatchal*. Panaji: Rajhauns Publications Pvt. Ltd.
- Rao, K. V. (April- September 1968). The Role of State Governors in India. *II* (No. 3 & 4).
- Report, E. (1967,1972,1977). *Key Highlights of General Election to The Legislative Assembly of Goa Daman & Diu*. New Delhi: Election Commission of India New Delhi.
- Rubinoff, A. G. (1992, May). Goa's Attainment of Statehood. *Asian Survey*, XXXII (05), 471-487.
- Rubinoff, A. G. (1998). *The Construction of a Political Community Integration and Identity in Goa*. New Delhi: Sage Publications.
- Saldanha, G. M. (n.d.). *Historia de Goa*.
- Sartori, G. (1976). *Parties and Party System: A framework for analysis*. New York: Cambridge University Press.
- Sequeira, D. (1990, May). An Acrimonious Alliance. *FGoa Today*, 16-19.
- Sequeira, D. (1994, August). MGP-BJP Alliance Finding Common Grounds. *Goa Today*, 8-10.
- Sharma, S. (1951). *The Making of Modern India*.

- Shirodkar, P. P. (1997). Socio-Cultural Life in Goa during the 16th Century. In C. J. Borges, & H. Feldmann (Eds.), *Goa and Portugal: Their Cultural Links*. New Delhi: Concept Publishing Company.
- Sigmund, N. (1962). *Modern Political Parties: Approaches to comparative Politics*. University Press.
- Sinha, A. (2002). *A Critical Potrait of Post Colonial Goa*. Delhi.
- Sinha, B. K. (1992). *Governor as a factor of Indian Federalism*. New Delhi: Classical Publishing Company.
- Siwach, J. R. (1977). *Office of the Governor A critical Study 1950-73*. New Delhi: Sterling Publishers Pvt. Ltd.
- Trichur, R. S. (2013). *Refiguring Goa: From Trading Post to Tourism Destination*. Saligao, Goa: Goa 1556.
- Varadachari, V. K. (1980). *Governor in the Indian Constitution*. New Delhi: Heritage Publishing .
- Verney, D. (1959). *An analysis of Political System*. Florida: Free Press.
- Ward, E., & Macridis, R. (1963). *Modern Political Systems*.

Panaji, 7th February, 1991 (Magha 18, 1912)

SERIES II No. 45

OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Legislature Department

Notification

No. LA/A/3024/1991

The following decision dated 6th February, 1991 of the Speaker of Legislative Assembly of State of Goa given under Rule 7(2) of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 framed under the Tenth Schedule of the Constitution of India is hereby notified and published.

"In the matter of petition filed by Shri Mohan Amshekar, MLA against Dr. Luis P. Barbosa, S/Shri Churchill Alemao, Joao Baptista Gonsalves, Somnath Zuwarkar, Luis Alex Cardozo, Miss Farrel Freda Furtado and Shri Mauvin Godinho, MLAs.

Order

Shri Mohan Amshekar, MLA of Maharashtrawadi Gomanak Party has filed the petition under the Tenth Schedule to the Constitution of India against Dr. Luis Proto Barbosa, Shri Churchill Alemao, Shri Joao Baptist Gonsalves, Shri Somnath Zuwarkar, Shri Luis Alex Cardozo, Miss Farrel Freda Furtado and Shri Mauvin Godinho, MLAs to be disqualified for defection.

Under the provisions of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 the petition has to comply with the requirements contained in Rule 6(6), according to which every petition has to be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for verification of pleadings.

Rule 7(2) provides that if the petitioner does not comply with the requirements of Rule 6, the Speaker shall dismiss the petition and intimate the petitioner accordingly.

I would not have been inclined to dismiss this petition merely on the technical ground of non-verification but the Rule-7(2) of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 makes it essential that I should dismiss this petition since it is not verified in the manner laid down in the Code of Civil Pro-

cedure, 1908 (Central Act 5 of 1908) for the verification of pleadings. Besides, the petitioner has filed the petition after the lapse of considerable time of more than seven months after the Members have tendered their resignation from the primary memberships of the Party i.e. Indian National Congress-I.

I am aware that the people from every nook and corner want that I should go into the merits of this petition and preserve the democratic values in view of the present political situation in Goa. However, failure on the part of the petitioner to comply with the basic requirement of Rule 6(6) prevents me from going into the merits of the petition.

Since the petition of Shri Mohan Amshekar, has not complied with the requirement of Rule 6(6), this petition has to be dismissed in accordance with Rule 7(2).

The petition is therefore dismissed.
The petitioner to be informed.

Sd/-
(SURENDRA V. SIRSAT)
Speaker

Dated: 6th February, 1991.

To:

- 1) Dr. Luis Proto Barbosa,
- 2) Shri Churchill Alemao, MLA.
- 3) Shri Joao Baptist Gonsalves, MLA.
- 4) Shri Somnath Zuwarkar, MLA.
- 5) Shri Luis Alex Cardozo, M.L.A.
- 6) Miss Farrel Furtado, MLA.
- 7) Shri Mauvin Godinho, MLA.
- 8) Shri Mohan Amshekar, MLA.
- 9) Dr. Wilfred D'Souza, Leader of Opposition.
- 10) Secretary, Chief Election Commission of India, New Delhi.
- 11) Chief Secretary, Government of Goa, Panaji-Goa.
- 12) Secretary to Governor, Goa.

Copy to:

The Chief Minister of Goa, Panaji Goa".

ASSEMBLY HALL
PANAJI-GOA
6TH FEBRUARY, 1991.

M. M. NAIK
Secretary to the
Legislative Assembly
of the State of Goa

Panaji, 8th February, 1991 (Magha 19, 1912)

SERIES II No. 45

OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

No. 2

GOVERNMENT OF GOA

Legislature Department

Notification

No. LA/A/3043/1991

The following decision dated 7th February, 1991 of the Speaker of Legislative Assembly of State of Goa given under Rule 8(1)(a) of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 framed under the Tenth Schedule of the Constitution of India is hereby notified and published.

"In the matter of Petition filed by Shri Vinayak Naik, MLA against Dr. Carmo Rafael Pegado, MLA for disqualification under the Tenth Schedule of the Constitution of India.

Order

By his petition dated 30-11-1990, Shri Vinayak Naik, MLA brought to my notice that the wording of the petition dated 28-3-1990 made before me by Dr. Carmo Rafael Pegado, MLA along with certain Congress Members against seven Congress Members who voluntarily gave up the Congress Party in April last year, showed that Dr. Carmo Rafael Pegado, who had been elected as an Independent candidate had joined the Congress Party and had hence incurred disqualification under the Tenth Schedule to the Constitution.

On receipt of the petition, I gave notice of the petition to Dr. Carmo Pegado and invited his comments as required by the rules.

Dr. Carmo Pegado submitted his comments dated 14-12-1990 wherein he denied the charge made by Shri Vinayak Naik, MLA.

I gave Dr. Carmo Pegado personal hearing on 5-2-1991. At the hearing he was represented by his Advocate, Shri Coelho Pereira.

It appears to me that Shri Coelho Pereira, Advocate had come only to confuse the issue and not to help either Dr. Carmo Pegado or me. It appeared that he had not understood the case of the petitioner at all. He wasted over an hour only demanding time to produce witnesses and in making irrelevant submissions.

I have gone through the petition and have heard the arguments made on behalf of the parties.

The short question is whether the opening sentence in the petition dated 28-3-1990 which reads as follows:

"1. Petitioners, undersigned are the Members of the Goa Legislative Assembly and, they were set up for the General Elections to the Goa Legislative Assembly, held recently, by the Indian National Congress."

and which has been signed by Dr. Carmo Pegado, makes out that he has joined the Congress (I) Party even though he was elected as an Independent.

The quoted sentence says that "they were set up for the General Elections to the Goa Legislative Assembly, held recently by the Indian National Congress."

Dr. Kashinath Jhalmi, MLA who appeared on behalf of Shri Vinayak Naik argued vehemently that Dr. Carmo Pegado not only signed that statement but by his actions has shown that he was a Member of Congress-I Party. According to him Dr. Carmo Pegado became a Minister in the Congress I Government. He also at all time voted with Congress and hence by his conduct and association with Congress he has shown that he was one of the Members of the Congress I Party. According to him that is how he has come to sign the quoted statement.

At the first flush the arguments of Dr. Kashinath Jhalmi look convincing. However it has to be noted that there is no prohibition for Independent Member to support another Party as an Independent Member. In such a case it becomes a Coalition and an Independent Member remains Independent. In such a Coalition the Independent Member can also be a Minister. Also when it is a Coalition all the Parties to the Coalition have to vote together. I therefore do not think that by being a Minister and voting with Congress Dr. Carmo Pegado can be said to have become a Member of Congress Party. Besides in the Petition it is not the case of Shri Vinayak Naik that Dr. Carmo Pegado has joined Congress by becoming a Minister and voting with them. Shri Vinayak Naik has only relied on the petition filed by Dr. Carmo Pegado and others dated 28-3-1990. I have therefore to see whether by what is stated in that petition there is reason to hold that Dr. Carmo Pegado has joined the Congress Party.

It is obvious that Dr. Carmo Pegado was not elected on Congress (I) ticket. That petition does not say that "we the MLAs belonging to the Congress (I) Party." If such a statement had been signed by Dr. Carmo Pegado one could say that there is prima facie evidence to say that Dr. Carmo Pegado has joined the Congress (I) Party and there would then be a case for him to deny that allegation and lead evidence.

In the present case it is quite clear that Dr. Carmo Pegado has signed a statement written out by MLAs who had stood on Congress (I) ticket, without either reading it or realising what has been written, because Dr. Carmo Pegado had stood as an Independent candidate.

By no stretch of imagination that statement can be interpreted to mean that Dr. Carmo Pegado has joined the Congress-I Party.

Dr. Carmo Pegado's learned Advocate however instead of advancing this simple and straight forward argument went on at a tangent, at time making remarks which could be treated as contempt of the House.

In fact the Advocate of Dr. Pegado made a statement which can be damaging to Hon. Member Dr. Carmo Pegado.

His worthy Advocate contended that the statement of Dr. Carmo Pegado made in the first paragraph of the petition dated 28-3-1990 can at the most be considered that Dr. Pegado has made a false statement and therefore he can be taken for it on a privilege or anything of that sort or may be treated as a statement made by oversight.

This statement does not do much credit to Dr. Carmo Pegado. It is not proper on the part of Member of the House to say that he has made a false statement and that he could be charged for contempt of the House for making it. However, I do not take that into consideration whilst deciding this petition.

I am clearly of the opinion that no case is made out that Dr. Carmo Pegado has joined the Congress (I) Party.

In the result, I dismiss the petition.

Dated: 7th February, 1991.

Sd/-
(SURENDRA V. SIRSAT)
SPEAKER

To:

- 1) Dr. Carmo Pegado, MLA.
- 2) Shri Vinayak Naik, MLA.
- 3) The Secretary, Chief Election Commission of India, New Delhi.
- 4) Chief Secretary, Government of Goa, Panaji.
- 5) Secretary to Governor of Goa.

Copy to:

The Chief Minister of Goa"

ASSEMBLY HALL

PANAJI - GOA

7TH FEBRUARY, 1991

M. M. NAIK

Secretary to the Legislative

Assembly of the State of Goa

Panaji, 15th February, 1991 (Magha 26, 1912)

SERIES II No. 46

OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

No. 3

GOVERNMENT OF GOA

Legislature Department

Notification

No. LA/A/3075/1991

The following decision dated 15th February, 1991 of the Speaker of Legislative Assembly of State of Goa given under paragraph 2(1)(a) of the Tenth Schedule of the Constitution of India is hereby notified and published.

"Petition under Article 191 (2) of the Constitution of India by Dr. Kashinath Jhalmi, Member against Shri Ravi S. Naik, Member.

Order

1. Dr. Kashinath Jhalmi, MLA of Legislative Assembly, of the State of Goa has filed a petition against Shri Ravi S. Naik, MLA of Legislative Assembly of the State of Goa that Shri Ravi S. Naik, MLA should be declared as disqualified for being the Member of the Goa Legislative Assembly under Article 191(2) of the Constitution of India read with Tenth Schedule of the Constitution of India on the following ground:

(1) Shri Ravi S. Naik sworn himself as the Chief Minister of Goa by voluntarily giving up the Membership of M. G. Party, his original party and thus incurred disqualification for being the Member of the House.

2. On receipt of the petition by Dr. Kashinath Jhalmi, MLA on 25-1-1991, I had one copy of the petition forwarded to Shri Ravi S. Naik, MLA and another to Shri R. D. Khalap, Leader of M. G. Party on 29-1-1991 for their comments within 7 days from the receipt of the same vide Rule 7(3)(a) and 7(3)(b) of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 hereafter called the Rules.

3. Shri R. D. Khalap has submitted his comments within the time limit i.e. on 5-2-1991. In his comments at para-9 Shri Khalap has stated as follows:

"That Shri Ravi Naik voluntarily gave up his membership of the M. G. Party as well as the M. G. P. Legislature Party and claimed to have formed a separate group alongwith one Shri Gurudas Malik and another Shri Avinash Bhonsale, Working President and Jt. Secretary of the M. G. Party with himself as the Leader".

4. Shri Ravi S. Naik, MLA did not file his comments in time, instead he made lengthy undated application which was received on 5-2-91 seeking adjournment for four weeks to file his comments as he had been admitted to Goa Medical College Hospital on account of spondylitis and that the Doctor had advised him fifteen days rest in the hospital. The enclosed medical certificate however stated that Shri Ravi

S. Naik was suffering from acute cervical spondylitis and that a period of absence from duty of 10 days with effect from 5-2-91 was considered absolutely necessary for restoration of his health. In the same application, Shri Ravi S. Naik, however, replied to the allegation in the petition stating that "in fact it is going to be the respondent's case and claim that he and several other members of the Legislative Assembly belonging to M. G. Party alongwith him constituted a group which has arisen on account of the split in the original political party". He further, stated that given the fact that the Assembly was in suspended animation the formalities under Tenth Schedule are required to be complied within due course. In the said application, therefore, it was made clear that the allegation in the petition was admitted, but, it was pleaded that there was no defection as he was protected by the provision contained in the para 3 of the Tenth Schedule.

5. Being in the hospital and as a friend I visited him in the hospital. I found that his ailment did not prevent him from meeting people and attending to his files. I therefore by my letter dated 6-2-91 addressed to Shri Ravi S. Naik informed him that as he has been attending many assignments he could give instructions to his counsel and as such I granted him extension of time to forward his comments till 11-2-1991.

Shri Ravi S. Naik however failed to forward his comments until 5.40 p.m. on 11-2-91. I took it that he did not want to send further comments. Hence a letter was sent to him informing him to appear before me for personal hearing on 13-2-91 at 4.00 p.m. in my Chamber at Secretariat, Panaji. It was made clear in that letter that he should prove his contention that there is a split in the original party and those who left the party with him are not less than 1/3 of the original party and that he could do it by filing affidavits or by producing the Members in person.

However on 11-2-1991 at 5.45 p.m. Shri Ravi S. Naik sent a letter requesting for further time for the reasons that he is still not recovered from his illness and Doctor has advised him not to look into the matter involving mental strain and stress and requested 3 weeks time to forward the comments. He further stressed that if the extension of time to forward the comments is not granted, hearing in the matter be taken up only after the Assembly session.

6. I forthwith by my reply dated 11-2-1991 addressed to Shri Ravi S. Naik informed him that the observation made by me in the letter dated the same date sent to him stands and that personal hearing will take place as scheduled. It was further stated that if he fails to attend the personal hearing on the date, time and place, I shall give my decision on the petition in his absence on the assumption that he does not wish to contest the same.

7. The petitioner, Dr. Kashinath Jhalmi was also informed that personal hearing has been fixed on 13-2-1991 at 4.00 p.m. in my Chamber and he should remain present for the hearing failing which the decision will be taken ex-parte.

8. The petitioner, Dr. Kashinath Jhalmi attended the personal hearing. Though Shri Ravi S. Naik, respondent,

had been discharged from the hospital and remained present in the Goa Legislative Assembly for Governor's Address on 13-2-1991 at 11.00 a.m. he did not appear before me at 4.00 p.m. on the same day, but an advocate represented him and pleaded his case.

9. The Advocate appearing for Shri Ravi S. Naik on 13-2-1991, submitted his reply in writing. In that reply he has again pleaded split in the M. G. Party and has claimed that 1/3 of the MLAs have made a separate group in the Assembly. In short he has taken defence under para-3 of the Tenth Schedule.

10. With his reply, he has enclosed a photostat copy of purported resolution passed by some Members of the M. G. Party at Ponda on 24-12-1990 to establish the case of split. He has enclosed another photostat copy wherein 8 persons claiming to be MLAs have signed that they constitute a group known as 'Ravi Naik's group of erstwhile M. G. P. MLAs. This has been signed at Panaji on 24-12-1990. It is addressed to no one in particular. Out of 8 names, 2 names are of MLAs who already disqualified as notified and hence are not MLAs anymore.

11. The two questions that arise for answer are (a) whether the alleged split is proved and (b) whether the group of MLAs who have dissociated from the party constitute 1/3 of MLAs of the original political party.

12. The petitioner, Dr. Kashinath Jhalmi in a very clear and studied manner argued that Shri Ravi S. Naik's defence that there was a split in the party and that a group of 1/3 party MLAs have been separated from the party, is not proved. He submitted that the two documents, are not to be believed and that they can be proved to be got up. In the first place, he says that it is not enough to show resolution to have been passed at Ponda. It was necessary to show the notices calling for that meeting and the signatures of those who attended that meeting and as to who presided at that meeting etc.

13. But the more important point he made was that if there was really a split in the party and a separate group of MLAs of old MGP was formed, it was incumbent upon the leader of that group to give the information to this effect to the Hon. Speaker as required by Rule-3 of the Rules in Form I. No such information has been furnished till today. He further stated that under Rule 4, each of the Members of the group had to give a declaration to that effect by filling Form III. This also has not been done till today. He said that in the absence of this, I could not take cognisance of the split and the group.

14. The Advocate of the respondent stressed that there has been a split in the original political party and the respondent and other constitute 1/3 of the party and claim that they came under the provisions of Para-3 of the Tenth Schedule of the Constitution.

15. When it was brought to the notice of the Advocate of the respondent that the two of the MLAs of the alleged group had already been disqualified and Shri Dharma Chodankar had intimated me on 14-1-1991 that Shri Ravi Naik and others had obtained his signature forcibly without his consent and against his will on a paper and that even on 13-2-1991 he had addressed a letter to the Speaker regarding sitting arrangements that he had no connection whatsoever with Shri Ravi S. Naik group and that he continues to be with the original political party. The Advocate referring to the disqualified two MLAs said that there was a stay by the Court. This argument cannot help the disqualified MLAs as stay from the court came after the order of disqualification was issued by me. Besides, recently the Parliament has held that the Speaker's order cannot be a subject matter of court proceedings and his decision is final

as far as Tenth Schedule of Constitution of India is concerned. With regard to third, Advocate said, he has signed on 24-12-1990 that he belong to the group. With regard to giving information to the Speaker as required by the Rules he said that the assembly was under suspension.

16. When it was brought to the notice of the Advocate of the respondent that though Goa Legislative Assembly was kept under suspended animation, the articles of the Constitution as regards the office of Speaker and Deputy Speaker were not suspended and both these offices were functioning and he could have filed the information regarding the split as required under the Rules, he had no answer. Dr. Kashinath Jhalmi also quoted the judgement of Shri Rabi Rai, Speaker, Lok Sabha announced in the Lok Sabha on 11-1-1991 under Tenth Schedule of the Constitution to show how split is to be proved.

17. Shri Ravi Naik, MLA has taken shelter under para-3 of the Tenth Schedule to protect himself from defection. His case is that there was a split in the party on 24th December 1990 at a meeting held at Ponda. A typed sheet of paper has been produced which purports to be a resolution passed on that day. On the reverse of the typed sheet there are some signatures. In the typed portions there are six names of which four are of MLAs including Shri Ravi Naik and two of disqualified MLAs. There is no name thereof of Shri Dharma Chodankar. This sheet of typed paper has been brought forward on 13-2-1991.

18. If I were shown the notice calling this meeting at Ponda showing its exact venue (typed sheet does not show) and the time (which also has not been shown in the typed sheet) and the signatures of persons who attended that meeting and minutes of that meeting, there could be some evidence to show that such meeting had been actually held. Dr. Kashinath Jhalmi is quite justified in his comment that in the absence of any such proof the holding of such meeting cannot, at all, be accepted.

19. So far as, I, as Speaker is concerned it is not only that the split is to be proved but it has to be proved by confirming to the Rules. Rule-3 of the rules has pointed out by Dr. Kashinath Jhalmi requires that such information of the new group formed, should be given to the Speaker and that should have been given in the prescribed form. But not only no prescribed form was filled but no information at all was given.

20. In the face of doubtful evidence represented by a typed sheet resolution which cannot be accepted and as no information as prescribed by the rules was given, in my judgement, the split in the party is not proved.

21. Again each of the Members of the new group if any, had to give declaration in Form-3. No one has given such information up to now.

22. On 13-2-91 I was asked by Shri Ravi Naik to arrange for him separate sitting for eight persons and one of them was Shri Dharma Chodankar. Shri Chodankar has however by his letter dated 13-2-1991 clearly stated that he was not one of the said 8 persons and that he had not left his original party. In this connection, it should be remembered that earlier in January 1991, Shri Chodankar had made a written complaint to me that his signature had been forcibly obtained on a paper.

23. In order to make matter easy for Shri Ravi Naik, I had suggested that he should produce before me affidavit or the members in person to support his case. He could have brought the six members in person before me or six affidavits of those erstwhile MGP MLAs (1/3 of 16 MGP MLAs) who had joined his group after the so called split. He did not produce a single affidavit nor the persons.

Out of the eight signatures supposed to have been taken by him at Panaji on 24-12-1990 two are the persons who were already disqualified and one of Shri Dharma Chodankar who has stated in clear terms that he does not belong to the group and he on 13-2-1991 sat in the Assembly with the Members of his original party.

24. For the above reasons, I hold that there is no group of 1/3 erstwhile MGP MLAs including Shri Ravi Naik.

25. For all the above reasons I have to answer both above questions in the negative. There is no evidence of any split in the M. G. Party and Shri Ravi Naik and those MLAs who are with him do not constitute 1/3 of the MLAs of the original M.G. Party. Shri Ravi Naik is therefore is not protected by Para-3 of the Tenth Schedule.

26. Goa's political Scenario has bestowed upon me to decide certain course of action, which with great patience and maximum perfection I am doing my bounden duty. Some times circumstances make you to perform the toughest and at the same time sorrowful act, but to preserve the democratic values, institution and the dignity of the House and above all the democracy itself one has to over come all the hurdles and without any fear or favour has to judge the things as per one's own consciousness mingled with facts and the Act.

I, therefore, make the following order:

Shri Ravi S. Naik, Member of Goa Legislative Assembly is hereby declared as disqualified from being Member of Goa Legislative Assembly under Article 191(2) of the Constitution of India on the ground of defection as set out in para 2(1)(a) of the Tenth Schedule of the Constitution of India.

He shall cease to be the Member of the Goa Legislative Assembly from today, the 15th February, 1991.

Panaji

Dated: 15-2-1991

Sd -
(Surendra V. Sirsat)
Speaker

To:

1. Shri Ravi S. Naik, MLA, Chief Minister of Goa.
2. Dr. Kashinath Jhalmi, MLA.
3. Shri R. D. Khalap, MLA.
4. Secretary, Chief Election Commission of India, New Delhi.
5. Chief Secretary, Government of Goa, Panaji-Goa.
6. Secretary to Governor, Goa."

ASSEMBLY HALL,
PANAJI-GOIA
15TH FEBRUARY, 1991.

M. M. NAIK
Secretary to the Legislative
Assembly to the State of Goa

Panaji, 24th June, 1991 (Ashadha 3, 1913)

SERIES II No. 12

OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

No. 4

GOVERNMENT OF GOA

Legislature Department

Notification

No. LA/A/723/1991

The following decision dated 20th June, 1991 of the Speaker of Legislative Assembly of State of Goa given under Rule 7(2) of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 framed under the Tenth Schedule of the Constitution of India is hereby notified and published.

"Before the Honourable Speaker, Legislative Assembly Goa, Panaji.

Reference No. 2 of 1991

Dr. Kashinath Jalmi, M.L.A. — Petitioner.

V/s

Shri Shankar Salgaonkar, M.L.A. — Respondent.

Reference No. 3 of 1991

Dr. Kashinath Jalmi, M.L.A. — Petitioner.

V/s

Shri Vinaykumar Usgaonkar, M.L.A. — Respondent.

Reference No. 4 of 1991

Dr. Kashinath Jalmi, M.L.A. — Petitioner.

V/s

Shri Pandurang D. Raut, M.L.A. — Respondent.

Reference No. 5 of 1991

Dr. Kashinath Jalmi, M.L.A. — Petitioner.

V/s

Shri Ashok T. Naik Salgaonkar, M.L.A. — Respondent.

In the matter of Petition under article 191(2) read with para 2(a) of the Tenth Schedule of the Constitution of India.

COMMON ORDER

By this Common Order, I will dispose off 4 separate applications referred to above filed by the Petitioner against the Respondents as the facts, circumstances and the issues involved in all these 4 cases are identical. The question of law involved in all these petitions is also the same.

2. In brief, the facts are that the petitioner has filed 4 separate applications against the Respondent under Article 191(2) read with para 2(a) of the Tenth Schedule of the Constitution of India praying that the Respondents be declared as disqualified for being a Member of the Legislative Assembly on the grounds that the Respondents have themselves sworn-in as a Cabinet Ministers on 12-2-1991 at 5.00 p. m. by voluntarily giving up the membership of their original party i.e. Maharashtrawadi Gomantak Party.

3. The Respondents were directed to file their comments within 7 days in accordance with the provisions of Rule 7 of the Goa, Daman and Diu Legislative Assembly (Disqualification) on the ground of Defection Rule 1986 (hereinafter referred to as the "Rules"). All the Respondents sought one month's time on the ground mentioned in their applications all dated 21-2-1991 which was granted by my predecessor. Accordingly, the Respondents filed their reply/comments on 18-3-1991 duly supported by their individual affidavits. The personal hearing was taken up on 19-4-1991. The Petitioner attended in person, whereas all the Respondents were represented by their Advocate. I have heard the arguments of the Petitioner as well as the Advocate of the Respondents.

4. Before, I discuss the merits of these cases, I would like to dispose off the preliminary objections raised by the Petitioner during the course of his arguments. The Petitioner raised preliminary objections to this proceedings under para 6(1) of the Tenth Schedule of the Constitution of India stating that the decision of question as to disqualifications on ground of defection shall be decided by the Speaker and not by Deputy Speaker. He contended that although Article 180 of the Constitution of India provides that during the vacancy in the office of the Speaker, the Deputy Speaker shall perform the duties of the office of the Speaker which means that only administrative functions can be performed. He emphasized that the Deputy Speaker is not authorised to perform the powers of the Speaker under the Tenth Schedule of the Constitution of India which are special powers given to the Speaker to interpret the provisions of the Constitution and, therefore, be submitted that it is only the Speaker and not the Dy. Speaker shall decide the issues of disqualifications.

5. The Advocate for the Respondents submitted that in terms of Article 180(1) of the Constitution of India, when office of the Speaker is vacant, the duties of the office of the Speaker shall be performed by the Deputy Speaker and if the office of the Deputy Speaker is also vacant then by such Member as may be determined by the Rules of the Procedure of the Assembly. Therefore, he submitted that during the absence of the Speaker, the Dy. Speaker shall perform the duties of the Speaker and as such, he is competent to decide the matters arisen out of the Tenth Schedule of the Constitution. Therefore according to him, the preliminary objections raised by the Petitioner goes.

6. Therefore, the first question that arises for my determination is whether the Dy. Speaker is competent to decide the questions arising out of the Tenth Schedule of the Constitution of India. Para 6 of the Tenth Schedule of the Constitution

of India contemplates that if any question arises as to whether the Member of the House has become subject to disqualification under the Tenth Schedule, the question shall be referred to for the decision of the Chairman or as the case may be the Speaker of the such House and his decision shall be final. Provided when the question arises as to whether the Chairman or the Speaker of the House has become subject to such disqualification the question shall be referred to for the decision of such Member of the House as the House may elect in this behalf and his decision shall be final. The term Speaker has not been defined in the Tenth Schedule of the Constitution of India. Being so, the term "Speaker" has to be read with the other provisions of the Constitution of India. As rightly pointed out by the Advocate for the Respondents that under Article 180 of the Constitution of India, the Dy. Speaker has to perform the duties of the office of the Speaker while the office of the Speaker is vacant. In the instant case, it is an admitted fact that the office of the Speaker is vacant. Therefore, it is beyond doubt that the Dy. Speaker has to perform the duties of the office of the Speaker. The provisions of Article 180 of the Constitution of India are mandatory in nature. This article gives ample power to the Dy. Speaker to perform and exercise the duties of the Office of the Speaker when the office of the Speaker is vacant. Therefore, the preliminary objections raised by the Petitioner does not survive. Being so, I overrule the preliminary objections raised by the Petitioner and consequently, I hold that the Officiating Speaker is competent and empowered to decide the matters arising out of the Tenth Schedule of the Constitution of India when the office of the Speaker is vacant.

7. After having argued on the preliminary objections, the Petitioner prayed that he may be permitted to examine some of the witnesses and further stated that one of the Witnesses namely Shri Vinaykumar Usgaonkar is present. The other two witnesses which the Petitioner wanted to examine are Ratnakar Chopdenkar and Sanjay Bandekar. The Advocate for the Respondents objected for the examination of these witnesses on the ground that they are Parties to the proceedings who are sought to be disqualified and being so they cannot be called as their own witnesses. The Advocate further contended that in the event the Petitioner wanted to examine any other witness he could do so by proper application or a proper list being given. He also submitted that the Parties are defending the charge which is made against them and they cannot depose under the Evidence Act against themselves. In reply, the Petitioner submitted that the present proceedings are the proceedings in the House and the Rules of Business of the House. If a statement is required from any Member of the House for the purpose of determining any question that is to allow and which has been also allowed earlier in many of the proceedings in a Committee of the House. He also contended that the Petitioner does not want that the witnesses should give any evidence against him or against anybody or in favour or against the Petition but for the purpose of determining the factual position, so that the Chair may know what is happening exactly. He also submitted that the Hon'ble Chairman is competent enough to ask any person to be before the Bar of the House if the House so requires to give in any of the Evidences or any knowledge or any of the information. He also submitted that S/Shri Ratnakar Chopdenkar and Sanjay Bandekar are not the Parties in this Petition.

8. The Advocate for the Respondents submitted that if the Petitioner wants to examine these 2 witnesses namely S/Shri Ratnakar Chopdenkar and Sanjay Bandekar he ought to have cited them as witnesses or produce them today to adduce evidence. He further contended that the matter is fixed for hearing. That apart, there is no application for summons to these witnesses. The normal procedure is that the witnesses are brought by the Parties and in case the Parties cannot secure their attendance, they have to move an application praying for the issue of summons. In the instant case, the Advocate for the Respondents submitted that the Petitioner has not brought his witnesses nor moved any application. He also mentioned that the Petitioner did not bother to cite them as witnesses in as much as the matter was adjourned and was fixed on 12th April 1991. The Petitioner had sufficient time to furnish the list of the witnesses or atleast secure the attendance of witnesses for today's hearing which he has failed to do.

9. The Petitioner stated that he would put up his application in writing at the end of the arguments of the matter on merits. After the arguments were heard, the Petitioner filed an application praying that he would like to examine S/Shri

Vinaykumar Usgaonkar, Ratnakar Chopdenkar and Sanjay Bandekar as his witnesses in the case No. 3/1991.

10. Although the Petitioner made the application to examine the said witnesses at the fag-end of the hearing after he argued the matter on merits, I propose to dispose of the application at the outset.

11. The element of time when the application was made has an important bearing on the application. If the Petitioner was serious in seeking to examine any witness, nothing precluded the Petitioner from making the application in writing at the beginning of hearing or atleast bring along the said witnesses and tender them for examination. The Petitioner also does not seek the adjournment of the matter to enable him to produce this witness but after having chosen to argue the matter on merits, decides to make the application for summoning 3 witnesses which he proposes to examine. One person whom the Petitioner proposes to examine as his witness is the Respondent himself. It is a settled law that a man cannot be called upon as his own witness to say he is guilty of something or he has committed some wrong. The entitlement, therefore, of the Petitioner to examine Shri Usgaonkar does not stand the test of law.

12. As far as the other two persons are concerned whom the Petitioner seeks that summons should be issued are Mr. Ratnakar Chopdenkar and Mr. Sanjay Bandekar. At the outset, the Petitioner has not stepped into the box himself to establish his case. But at random he proposes to examine the said witnesses and that too on summons to be issued by me. There is no set procedure for issuing of summons but the Rules of the House contemplate as to how witnesses are to be examined on summons.

13. I am not averse to the Petitioner examining any witnesses but here the attempt seem to be half-hearted as first of all the Petitioner did not off himself to give any evidence and submit to cross-examination. However, the Petitioner after having chosen to argue the matter on merits instead of making the application for adjournment to adduce evidence, makes an application for summoning the said persons as his witnesses. Nothing precluded the Petitioner who had to open his case from bringing the said witnesses and offering them for cross-examination of the Respondent or atleast make an application at the inception of hearing for summons justifying as to why he could not produce the said witnesses before me. So in this set of circumstances and as the Petitioner has chosen to argue the matter on merits, I do not see any reason and/or justification to allow the application of the Petitioner for examining the said witnesses. On the merits of the case, the Petitioners claim that the Respondents have incurred disqualification for being Members of the House as they are allegedly rendered vulnerable to disqualification under the provisions of Art. 191(2) of the Constitution of India read with para 2(a) for voluntarily giving up the membership of the original Party, I have already decided the relevant issues which arise for consideration here, in my Judgement passed in Review Petitions decided by me by Orders dated 7.3.1991 and 8.3.1991.

14. The arguments which had been advanced in this case by the Petitioner are similar to those advanced in those cases decided by me.

15. The respective cases of the Petitioners in those review petitions are similar to the case of the Respondents in this petition. They claim that at a meeting held at Ponda at the residence of Mr. Ravi Naik on 24.12.1990 there was a split in the original Maharashtrawadi Gomantak Legislature Wing of the Party and as a result of the split the Respondents alongwith others including one Shri Dharma Chodankar Chodankar formed the group under the leadership of Shri Ravi S. Naik. But, however, the said Dharma Chodankar had decided to go back to his original Party thereafter. Their case therefore has been that they are covered by para 3 of the Tenth Schedule of the Constitution and the petition against them should be dismissed.

16. In the said two review orders of mine in substance I have, in fact, held that there was a split in the original Maharashtrawadi Gomantak Party and as a result of this split, a Group consisting of the Respondents and 4 other M. L. As under the leadership of Shri Ravi S. Naik was constituted.

17. I have observed in my orders passed in those cases that I would not express any opinion in the matter of Respondent's claim of Shri Dharma Chodankar going back to his original MGP after the split in order not to in any way infringe

upon his rights without a proper application filed against him and without he being heard in the matter.

18. In the light of the relevant findings contained in the said Judgement, I hold that in the instant case the Respondents are covered by para 3 of the Tenth Schedule of the Constitution of India. As a matter of fact, there was a split in the M. G. Party on 24.12.1990 where the Respondents alongwith 4 other M. L. As belonging to the M. G. P. constituted themselves as splinter group to be named as Maharashtrawadi Gomantak Party (Shri Ravi Naik Group). The Petitioners have not produced before me any piece of evidence or material on record to reach to the conclusion contrary to the one arrived by me in the said 2 Orders. I, therefore, in the light of the above, dismiss the said 4 petitions filed by the

Petitioner by this common order. I direct that this Order be ordered to be published in the Official Gazette and the copies of the Order be forwarded to the Secretary to the Election Commissioner of India and the Government of Goa.

Sd/-

(SIMON PETER D' SOUZA)
SPEAKER"

Dated: 20th June, 1991.

ASSEMBLY HALL

Panaji-Goa

21st June, 1991.

M. M. Naik

Secretary to the Legislative
Assembly of the State of Goa

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

No. 2

GOVERNMENT OF GOA

LEGISLATURE SECRETARIAT

Notification

No. LA/A/2299/1994

The following decision dated 15th September, 1994 of the Speaker of Legislative Assembly of State of Goa given under Rule 8(1) of the Members of Goa Legislative Assembly (Disqualification on grounds of Defection) Rules, 1986 framed under the Tenth Schedule of the Constitution of India is hereby notified and published.

Legislative Assembly of the State of Goa

Bulletin Part - II

Thursday, the 15th September, 1994/25,
Bhadra/Saka — 1916.

86. The following decision dated 15th September, 1994 of the Speaker of Legislative Assembly of State of Goa given under Rule 8(2) of the Members of Goa Legislative Assembly (Disqualification on grounds of Defection) Rules, 1986 framed under the Tenth Schedule of the Constitution of India is hereby notified and published.

"In the matter of petition filed by Shri Victor Gonsalves, M. L. A. and against 6 Members of the Goa Legislative Assembly.

COMMON ORDER

- | | | |
|---|------------------------------|--------------------|
| 1. Shri Victor Gonsalves, MLA v/s. Shri Luis Alex Cardoz, MLA | — Petitioner — Respondent | Reference No. 1/92 |
| 2. Shri Victor Gonsalves, MLA v/s. Shri Somnath Zuwarker, MLA | — Petitioner — Respondent | Reference No. 2/92 |
| 3. Shri Victor Gonsalves, MLA v/s. Shri J. B. Gonsalves, MLA | — Petitioner — Respondent | Reference No. 3/92 |
| | | Reference No. 4/92 |

- | | | |
|---|------------------------------|--------------------|
| 4. Shri Victor Gonsalves, MLA v/s. Shri Mauvin Godinho, MLA | — Petitioner — Respondent | Reference No. 5/92 |
| 5. Shri Victor Gonsalves, MLA v/s. Shri Churchill Alemão, MLA | — Petitioner — Respondent | Reference No. 6/92 |
| 6. Shri Victor Gonsalves, MLA v/s. Smt. Farrel Furtado e Gracias, MLA | — Petitioner — Respondent | |

This Common order will dispose off six separate Petitions filed by the petitioner against the respondents as the facts, circumstances and issues involved in all the six cases are identical.

1. The Petitioner has filed six separate applications against the respondents under Article 191(2) read with the Tenth Schedule of the Constitution of India praying that the Respondents be declared as disqualified for being Members of the Goa Legislative Assembly in view of the fact that Dr. Luis Proto Barbosa stands disqualified as a member of the House, consequently the Respondents also stand disqualified under para 2 of the Tenth Schedule of the Constitution of India for voluntarily having given up his membership of the Indian National Congress after being elected to the House on the ticket of the Indian National Congress.

2. The Respondents were called upon to file their comments within 7 days in accordance with the provisions of Rule 7 of the Members of the Goa Legislative Assembly (Disqualification on grounds of Defection) Rules 1986. The Respondents vide letter dated 13-1-1992 requested three months time to file their comments but they are granted time upto 12th March, 1992 to file their comments.

3. On 24th March, 1990 all the above respondents along with Dr. Luis Proto Barbosa holding the office of the then Speaker of the Goa Legislative Assembly submitted a letter to the President of the Goa Pradesh Congress (I) Committee at Panaji tendering the respective resignations from the primary membership of the Indian National Congress (I) Party.

4. The respondents also addressed letter to the then Governor of Goa Shri Khursheed Alam Khan stating therein that they have withdrawn their support to Shri P. R. Rane as the Leader of the House and Chief Minister of Goa. The Governor of Goa vide his letter dated 24-03-90 informed Shri P. R. Rane stating that the above representatives have withdrawn their support to him as the Leader of the House and Chief Minister of Goa and they also confirmed this fact

in writing after personally meeting him on that day and 7 members have also formed a Goa people's Party with Dr. Luis Proto Barbosa as the President after resigning from primary membership of the Indian National Congress (I) Party.

5. On 25th March, 1990 Shri Eduardo Faleiro who was the President of the Goa Pradesh Congress (I) Committee accepted the resignation of all the seven members.

6. On 27th March, 1990 Shri Luizinho Faleiro, MLA elected from Navelim Constituency filed a petition for disqualification of Dr. L. P. Barbosa. The said petition was referred to Dr. K. G. Jalmi, MLA, member elected in terms of proviso to para 6(1) of the Tenth Schedule of the Constitution of India. Dr. K. G. Jalmi by his judgement and order dated 14-12-90 declared that Dr. L. P. Barbosa had become subject to disqualification under para 5 of the Tenth Schedule of the Constitution of India.

7. The contention of the petitioner is that on 24-03-90 or any time thereafter, there has not been any split in the Indian National Congress and the fact has been confirmed by the then General Secretary of AICC, Shri H. K. L. Bhagat in the letter dated 25-04-90 addressed to Dr. Wilfred D'Souza, the then Leader of Indian National Congress in the State Legislative Assembly.

8. One of the Members of the State Legislative Assembly Shri Domnick Fernandes a candidate set up by Indian National Congress and elected from Curchorem Constituency filed a petition against the 6 members name: Churchill Alemao, Luis Alex Cardoz, Somnath Zuarkar, J. B. Gonsalves, Mauvin Godinho and Farrel Furtado under the provision of the Tenth Schedule of the Constitution of India for their disqualification. The said petition was rejected by the then Hon'ble Speaker of the Goa Legislative Assembly on the technical grounds that it did not conform with the rules of procedure under the Tenth Schedule of the Constitution of India.

9. The petitioner further states that Dr. L. P. Barbosa alongwith 6 Members resigned from Indian National Congress after their election and are not entitled to claim the benefit of exemption under proviso 3 of the Tenth Schedule of the Constitution of India more so after Dr. L. P. Barbosa has been disqualified by the Member elected under the proviso to para 6(1) of the Tenth Schedule of the Constitution of India and consequently all the above respondents stands disqualified under para 2 of the Tenth Schedule of the Constitution of India for voluntarily having given up their membership of the Indian National Congress after being elected to the House.

10. All the respondents namely: Luis Alex Cardozo, Mauvin Godinho, Somnath Zuarkar, J. B. Gonsalves, Churchill Alemao and Farrel Furtado, have filed their comments on 9-03-92, 10-03-92, 10-03-92, 10-03-92, 12-03-92 and 12-03-92 respectively. All these 6 respondents in their reply have stated that the said petition has been filed after almost two years from the date of alleged cause of action is barred by laches.

11. The respondents further stated that in their replies that the petition is barred by res-judicata or principle analogous thereto is that the petition on the same cause of action was filed by Shri Domnick Fernandes and others filed on 28-03-90 was dismissed by the then Speaker Shri Surendra Sirsat on 13-12-90. The contention of the respondent is that there was a split in the political party Congress (I) on 24-03-90. All the 6 respondent members of the Congress (I) Legislative party constituted a Group representing of faction which arose as a result of the said split and the said group consisted of not less than 1/3rd of the Members of the Congress (I) Legislature Party and therefore the respondents are not disqualified under sub-para (1) of para 2 of the Tenth Schedule of the Constitution on the grounds that they have voluntarily given up the membership of their political party. The respondents have denied that on 24-03-90 or any time thereafter there has been split in the Indian National Congress (I) and the respondents are also not aware and does not that Shri H. K. L. Bhagat wrote the alleged letter dated 25-04-90 to Dr. Wilfred D'Souza and in any event the purported letter is irrelevant, self serving and not binding on the respondents. The respondents further denied that the said members cannot claim or invoke the benefit of exemption under para 3 of the Tenth Schedule of the Constitution of India. They further denied that the disqualification of Dr. L. P. Barbosa can affect the

claim of the respondents that there was a split in Congress (I) Legislative Party constituted a Group representing a faction which had arisen as a result of the said split in Congress (I) Legislative Party constituted a Group representing a faction which had arisen as a result of the said split that the said group consists of not less than 1/3rd of the Legislature Party.

Both the parties filed their proposed issues on 27-03-92 out of which the following issues were treated as the preliminary issues:

1. Whether the respondent proves that the petition is liable to be dismissed in limine for laches delay and limitation, as the petition is filed after almost two years from the date of the alleged cause of action.

2. Whether the respondent proves that the petition is barred by res-judicata or principles analogous thereto, in that a petition on the same alleged cause of action filed by Shri Domnick Fernandes, Dr. Wilfred D'Souza, Shri Victor Gonsalves (the petitioner) and others, MLAs filed on 28-03-90 was dismissed by the then Speaker, Shri Surendra V. Sirsat on 13-12-90.

3. What is the effect of the withdrawal of writ petition No. 492 of 1990 filed by Dr. Wilfred D'Souza, Leader of the Congress (I) Legislature Party who had sought the respondents' disqualification in the Supreme Court on the same alleged cause of action.

4. Whether the petition fails not complying with the provisions of the Goa Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986 in that the petition and its annexures are not verified in the manner laid down in the code of Civil Procedure, 1908.

While arguing the issues the learned counsel Shri Agnel Diniz on behalf of the respondents Shri Luis Alex Cardoz, Somnath Zuarkar, J. B. Gonsalves and Mauvin Godinho, stated that according to the petitioner the cause of action arose on 24-03-90 and the petition was filed on 4th January, 1992; that is almost after two years. For this he pointed out the disqualification law and quoted Judgement of the High Court in this matter, on the decision of the Speaker, Dr. Kashinath G. Jhalmi versus the Speaker.

The Judgement reported in 1992 Bombay case Reporter, page 113.

Further he referred to paragraph 21 of the Judgement for the purpose of issue No. 1. He stated that in the matter of representation in representative body it is of utmost importance that the challenge must be prompt and forthwith. Further the rules framed in the Extraordinary Gazette dated 17th July, 1986 in exercise of powers conferred by paragraph 8 of the Tenth Schedule of the Constitution of India read with Section 14 A of the Government of Union Territories Act, 1963 in the rules at every stage time is specified. He further stated that whenever the time is not prescribed the matters are to be dealt with by applying the doctrine of reasonableness. He laid the stress on the paragraph 8 of the Tenth Schedule, that the petition should be filed within reasonable time. There he quoted the Judgement of the Supreme Court AIR 1987 page 1577 and relied on paragraph 6 of the said judgement. He further submitted that when there is no period of limitation prescribed under the Limitation Act, the test of reasonableness has to be adopted. He further stated that two years period that the petitioner has taken to file this Disqualification petition is not a reasonable period considering the very scheme of the Act.

While arguing the issue No. 2 the learned counsel quoted para 6 of the Tenth Schedule of the Constitution, para 6 states, if any question arises as to whether a member of the House has become subject to disqualification under this schedule the question shall be referred to the decision of the chairman, or as the case may be the Speaker of the House and his decision shall be final. In this case the question was referred by way of petition to the Speaker, Mr. Surendra Sirsat who was then the Speaker and the Speaker has pronounced his Judgement rejecting the petition.

The petition was rejected as the same was not properly verified. According to counsel for the respondent the cause of action was on 24-03-90 against all these persons before the Speaker, this same question was there, the same person had come before the Speaker and Petition filed by the same person

on the same cause faction was rejected by the then Speaker by an order dated 13th December, 1990 and the cause of action in that petition was 24-03-90.

The contention of the Counsel was that under paragraph 6 of Tenth Schedule the question can be referred to Speaker only once and the Speaker has pronounced his decision on the matter. Paragraph 6 does not contemplate continuous reference on the same matter. Reference is once and the Speaker has to decide and pronounce that the petition has been rejected. The decision becomes final with the finality attached in paragraph 6 itself otherwise the question would be that every time petition after petition would be filed and it would go on the same cause of action and that would be totally against the public policy and against the very para itself making the decision of the Speaker final otherwise what is the point in making rules saying that the petition shall be filed immediately.

While submitting the arguments on issue No. 3 of the counsel for the petition stated that in the scheme of the rules framed under the Tenth Schedule there is a party. There is a leader of the party who is defined under the rule 2 therefore the rules recognise that there is a Leader of the Legislative Party and when a disqualification petition is filed it is mandatory that a notice has to be issued to the leader under Rule 7 (3) (b). So that the Leader of the House can also make his comments. He further contended that he filed a petition in the Supreme Court of India seeking disqualification of these respondents and subsequently withdrew his petition.

On the point of issue No. 4 the (respondents) learned counsel contended that according to rule 6(6) and 6(7) every Petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the verification of pleadings. Then under rule 6(7) every annexures to the petition shall also be signed by the petitioner and verified in the same manner as the petition because the annexures are an integral part of the petition under the Civil Procedure Code, the verification should either be true to your knowledge or it can be true to your information or it can be by way of legal submission. The very cause of action in Exhibit 'A' of annexure to the Petition. They do not rely on this petition. That is the cause of action. Resignation letter dated 24-3-1990 Exhibit 'B' of annexure to the petition also nothing. None of the exhibits have been verified. In this connection, he relied on *AIR 1990 Bombay Bench 1990, Page 90 — AIR 1974 Supreme Court, Page 1957*. He also pointed out a Judgement from the Administrative Tribunal on the very same point which was upheld in an election petition.

The learned counsel for the respondents Shri Radharao Gracias appearing on behalf of Shri Churchill Alemao and Smt. Farrel Furtado e Gracias submitted that general law provides for limitation for wherever there is a cause of action and redressal has to be obtained within a limited period. Tenth Schedule does not provide for the period, within which the petition has to be filed. But that does not mean that the petition can be filed at any time. It has to have same finality somewhere that is why the Limitation Act was framed. He further stated that since the term of MLAs is 5 years the limitation should have been three months or six months at the most.

On the question of issue No. 2, the counsel contended that under the scheme of the Tenth Schedule the cause of action accrues to a political party it does not accrue to an individual, he pointed out the case. The same Members including the Leader of the Congress Legislative Party made a petition and it was dismissed and once it is dismissed no other member of that party can file a petition. The party through its agent has filed a petition which has been dismissed and therefore no second petition can be admitted. The law does not distinguish between the technicality and merits and according to him the petition was dismissed on merits.

The law does not make any difference between technical decision and decision on merits. According to the counsel, the issue has already been decided. The decision has been given under para 6 by then Speaker whose decision is final because the Speaker has given the decision, on merits. Advocate Diniz furnished the copy of the reported *Judgement of Supreme Court 1968 at page 1297 on the Doctrine of Reasonableness*.

On the other hand Advocate Mario Bruto D'Costa, appearing on behalf of the petitioner, submitted to note the contents of Sec. 81 of the Representation of People's Act which was enacted in 1951 and was amended in 1956, 1961 and 1966 and he further quoted Sec. 81 which reads as follows:

"An election petition calling in question any election may be presented on one or more of the grounds specified in sub-sec. Sec. 100 and Sec. 101 of Representation of People's Act to the High Court by any candidate at such election or any election within 45 days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidates at the election and the dates of the election, and the dates of the election are different, the later of those two dates.

He further submitted that Sec. 81 and the point of time at which the section was enacted and was amended is this section deals with the presentation of the petition challenging the elections and which lays down clearly in specific terms who is entitled to challenge the election, namely a candidate or any elector No. (1) and No. (2) is section 81 clearly lays down a limit within which the petition can be filed. He further contended that the Tenth Schedule of the Constitution which inserted recently, namely, much after 1966, the Legislature was fully aware that in the representation of the People's Act it provides for the procedure of presentation of petition, it had clearly laid down a time limit within which the petition had to be filed and the Legislature was fully aware that it had provided as to who is entitled to challenge an election, namely any candidate or any elector. In the Tenth Schedule the Legislature has deliberately not made any specific provision in this regard. There is no such time limit in the Tenth Schedule neither is there any such time limit under the rules which were enacted in the House.

The counsel further submitted that the respondents have not denied paras 5, 6, 7, 8 and 9 of the petition. There had to be specific denial of the allegations made in the petition. The Respondents crave leave to refer to the letters at Exhibits 'A' and 'B' for ascertaining their true meaning and effect. The case of the respondents was that they are 7 altogether and therefore they constitute a group of one-third of the Members of the particular Party in the Legislative Assembly. So therefore the disqualification of these Members was to be decided in the light of the exemption that is provided in Tenth Schedule, namely that, if one-third of the Members of a party resign from the membership of that party, they would not incur disqualifications. When the fate of the Speaker is decided, the Member know that the remaining six Members incur disqualification otherwise if the Speaker's fate is not decided, the question whether they constitute seven or more cannot be decided by the Speaker himself since he defected alongwith the group of seven.

The learned counsel further submitted that six Members claim that they form a group alongwith the Speaker. In view of the facts of this case, the new Speaker cannot decide that they constitute 1/3rd because he cannot decide on the matter of the old Speaker.

The advocate for the petitioner stated further that if the group have resigned from the party under para (2) (a) of Tenth Schedule they are disqualified. The moment a person resigns from a party that person incurs disqualification.

Advocate D'Costa contended that the issue when the Question depends upon the decision of one, namely, the Speaker the same cannot be raised. He cannot be tagged to the remaining MLAs. His disqualification has to be decided by special proceedings. So only when the Speaker is an exception to the rule relating to other MLAs now it is only when the fate of the Speaker is determined, if the Speaker is disqualified that there will be a cause of action vis-a-vis the remaining MLAs. Which together with the Speaker would make one third. So therefore the cause of action arises in this particular case, on the date the fate of the Speaker is decided who defected alongwith the group.

He further submitted that it is possible that old Speaker would never had been disqualified. In such case the remaining six could not have been disqualified because if he has not been disqualified and he forms part of this group altogether they are one-third. But if the Speaker is disqualified and he is a part of this group, then these six persons cannot claim to fall within the exception.

They are less than one third. In that connection, therefore, the cause of action has arisen now and not on that date cause of action, this is to be noted, is a bundle of facts and the last fact which was relevant in this particular case is the decision of the fate of Speaker.

According to the counsel for the petitioner, there is no requirement which has to specify the date on which cause of action has arisen and that the question of making a specific averment of the date of which cause of action arose. He further submitted that there is no need of averting because there is no limitation. There is no requirement under the law or in the rules which requires that there should be an averment on the date of which the cause of action arose.

The learned counsel replying to the issue No. 4 stated that the annexures to the petition were not properly verified for which relied on two decisions.

1. *Air 1964 Supreme Court Page 1546* and quoted the head note which reads as follows:

A defect in verification in the matter of election petition is a matter which comes within Cl. (c) of Sub-S (1) of Section 83. The defect can be removed in accordance with the principles of the Code of Civil Procedure 1908 such a defect does not attract Sub-S (3) of Section 90 of CPC in as much as that a Sub-Section does not refer to non-compliance with the provisions of Section 83 as a ground for dismissing an election petition. Hence reading the relevant sections in part VI of the Act, it is impossible to accept the contention that a defect in verification which is to be made in the manner laid down in the Code of Civil Procedure 1908 for the verification of pleadings as required by Cl. (c) of Sub-S (1) of Section 83 of CPC is fatal to the maintainability of the petition on the point of question raised that the annexures are not properly verified the counsel relied upon two Supreme Court decision i.e. *Air 1968 Supreme Court Page 1079* and *Air Supreme Court Page 871*.

He further pointed out that he had not challenged the verification in the petition in the course of arguments and as a matter of fact the verification in the petition is absolutely correct and there is no defect. They have challenged that the documents are not properly verified.

The Counsel stated that the respondents themselves are relying on the true meaning of the letter tendering the resignations. He further contended that since the pamphlet was an annexure to the Petition, it was not only necessary to sign and verify it, but that it should have been treated as a part of the election petition itself and a copy served upon the respondents. In this way, non compliance with the provisions of section 86(1) of CPC is made out. Since the election petition itself reproduced the whole of the pamphlet in translation in English, it could be said the averment with regard to the pamphlet was served upon the respondents although in a translation and not in original. It is quite clear that sub-section (2) of section 83 has reference not to a document which is produced as evidence of the averments of the election petition which are put not in the election petition but in the accompanying Schedules or annexures. There are quite a number of examples from which it would be apparent that many of the averments of the election petition are capable of being put as Schedules of annexures. The details of the averments too compendious for being included in the election petition may be set out in the Schedules or annexures to the election Petition. The law then requires that even though they are outside the election petition, they must be signed and verified, but such annexures or schedules are then treated as integrated with the election petition and copies of them must be served on the respondent is the requirement regarding service of the election petition is to be wholly complied with. But what we have said here does not apply to documents which are merely evidence in the case but which for reasons of clarity and to land force to the petition are not kept back but produced or filed with the election petition.

They are in no sense an integral part of the averments of the petition but are only evidence of those averments and in proof thereof. The pamphlet therefore must be treated as a document and not as a part of the election petition in so far as averments are concerned. The issue No. 4 was concluded by the Counsel.

While reply to issue No. 2 the counsel for the petitioner contended that this issue i.e. res-judicata arose as the petition was filed by Shri Domnick Fernandes, MLA and the same was dismissed on technical ground, namely that it did not comply with the rules. There was no decision on merits. Once a petition is dismissed on a particular cause of action, whether it is on technical defect or otherwise, that is final decision. For that matter the counsel for the petitioner relied on *Supreme Court A.I.R. 1966 Page 1332*. On section 11 of C.P.C. "In order that a matter may be said to have been heard and finally decided, the decision in the former suit must have been on merits. When for example, the former dismissed by the trial court for want of jurisdiction, or for default of plaintiff's appearance, or on ground for non-joinder of parties or mis-joinder of parties or multifariousness, or on the ground that the suit was badly framed, or on the ground of a technical mistake, or for failure on the part of the plaintiff to produce probate or letters of administration or succession certificate when the same is required by law to entitle the plaintiff to a decree, or for failure to furnish security for costs, or on the ground of improper valuation or for failure to pay additional court fee on a plaint which was under valued for want of cause of action or on the ground that it is premature and the dismissal is confirmed in appeal (if any) the decision not been on the merits would not be res-judicata in a subsequent suit."

The counsel further submitted that the petition was filed by Domnick Fernandes and those who have just signed there saying that I support, they are not parties to the petition. So therefore in order that there should be res-judicata it has to be litigation between the same parties. The principle of res-judicata be applied in a case of a person who has knowledge about the litigation. We are on the question of res-judicata. Res-judicata is between the parties. If he is not a party to the petition the question of having knowledge will not come in the way at all. The counsel further stated that the res-judicata will arise only where a person is a party to the previous petition.

He further stated that the cause of action will arise only after the fate of Speaker is decided. So even if that petition had been decided on merits, even if the Speaker had given some reason to dismiss that petition, a cause of action would have arise. Once the fate of Speaker was decided. So, that decision cannot come in the way of fresh petition.

The cause of action would not have arisen because mere resignation from the party does not come in case of action. If they are more than one third, where is the cause of action. It would be an exercise in futility because they would come within the exemption.

He further submitted that it is the new Speaker who was to decide the fate of seven who defected by saying that there was no split, the Speaker would be deciding on breach of para 5 of Tenth Schedule because the elected member of the House would be facing a decision which had already been taken by the Speaker. The Speaker could not decide whether there was a split or not. He would not be able to decide that because one member of the seven MLAs is the Speaker and his fate is to be decided by Special Authority that is created under the Tenth Schedule.

He further submitted that the authorities are different, the jurisdictions are different. This jurisdiction of the Speaker to decide on the fate of the former Speaker and it had to be decided by the elected Member of the House.

Lastly arguing the issue No. 3 of the withdrawal of the Writ petition filed by Dr. Wilfred D'Souza in the Supreme Court the Counsel submitted that it is the petition filed before a forum that had no jurisdiction because under clause 7 of the Tenth Schedule. The Supreme Court had held that it had powers to review. But the Supreme Court has no powers to entertain an original petition. This is an original petition filed before the Supreme Court asking the court to disqualify. The Supreme Court had no jurisdiction to decide. The Supreme Court decided only that the powers to review the order of the Speaker is not taken away. Supreme Court has not arrogated to itself the power to decide on the disqualification in the first instance. So therefore Dr. Wilfred D'Souza's petition before the Supreme Court under Article 32 was petition filed before the Supreme Court under Article 32 was petition filed before a Court without jurisdiction. A petition for disqualification straight away filed in the Supreme Court is totally void.

He further submitted that the petition under 32 of the Constitution of India for declaring the Members of the Legislative Assembly as disqualified before Supreme Court was a petition filed before a Court that had no jurisdiction. That being the case, issue No. 4 has no consequences on this petition. In that connection also the question of res-judicata is probably sought to be raised by them. To give stress on this proposition the petitioner relied upon the decision of the *Andhra Pradesh High Court in AIR 1971 at page 281*, that if the former litigation was before a Court without jurisdiction even if an appeal is filed.

He referred to the Writ Petition filed by Dr. Jhalmi in the High Court where an observation is made that there was a delay and laches. Those observations are made in the light of the decisions which were cited before the High Court and which are transcribed in the decision. That principle is asserted because the matter is being adjudicated upon in writ petition and rejurisdiction it has been held that delay or laches are relevant. It is not in the context of an election petition as such.

He further contended that election law give time limit. Election Law, Representation of Peoples Act lays down the time limit to the question of saying laches and delay does not arise. Representation of Peoples Act provides 45 days time limit but in case of Tenth Schedule there is no time limit as such. The principle, that issue has come immediately without delay or laches is the principle laid down in the light of the principles so far as rejurisdiction is concerned and if the decision cited are gone through, than one can definitely come to the conclusion that this observation is made because they were exercising rejurisdiction. *The Supreme Court has held that inquiries in an election petition should be expeditious.* Hence the matter is not of inquiry.

The Counsel further contended that the 1974 decision and the decision cited again in the A.L.R. 1990 Bombay, page 90 that in an election petition in the matter of Co-operative Society was filed without supporting affidavit. So the Court said one cannot file an affidavit subsequently. The decision is not applicable to the facts of this case because here we have a petition that is properly verified so far as the other decision is concerned that is AIR 1974, Supreme Court at page 1907, cited by him again deals with verification of the petition and not of the documents.

He further cited a case of Supreme Court 1974 at page 1907 wherein if so happened that the party when making verification had not disclosed the source of information. In this case source of information has been disclosed so the verification in this case is perfectly right and it is not covered by 1974 Supreme Court. As far as the documents are concerned the law laid down by the Supreme Court is altogether different for which he relied on the two decisions which he cited earlier. The recent decision given in 1984 says that in this circumstance there is no question of verification. The decision of the Supreme Court 1984 takes care of that as far as the documents are concerned lastly he stated that there is no limitation, that the cause of action has arisen only after the disposal of the petition of the Speaker.

Advocate Agnelo Diniz while replying to the point raised by the advocate for the petitioner stated that the cause of action never arises in stages it arises on that date.

Admittedly on that date seven persons went out of the political party so it is on that date that the cause of action has arisen. So the fact that the Speaker was subsequently disqualified does not have anything to do with the constitution. He referred to the Bombay Judgement cited by him earlier, the only Judgement which conceded provisions which are para material to the provisions in the Disqualification Rules.

He further contended that under the Representation of the Peoples Act there are three provisions which has to be noticed, Firstly Section 81, Section 83, and Section 86. Section 81 needs certain things to be done for a petition. Section 83 deals with the verification part and section 86 says that if the provisions of section 81 are not complied with the petition shall be dismissed. In other words section 86 does not refer to Section 83. It says only if it has not complied with the provisions of Section 81 then the petition shall be dismissed. So it is in that context in some of the

Judgement of the Supreme Court, the Supreme Court has held that non-verification or defective verification shall not be made. It is in that context, because section 83 is attracted and not section 81. A division Bench of the Bombay High Court considered provision which are para material in the Cooperative Societies Act. The Cooperative Societies Act pointed out that a petition shall be accompanied by an affidavit. The petition shall be signed and verified in the manner as in the petition. That non-verification or defective verification shall not be made. It is in that context, because section 83 is attracted and not section 81. A division Bench of the Bombay High Court considered provisions which are para material in the Cooperative Societies Act. The Cooperative Societies Act pointed out that a petition shall be accompanied by an affidavit. The petition shall be signed and verified in the manner as in the petition. He contended that as far as the point of verification of the petition and verification of annexures, the rule says that the annexures to the petition shall be verified in the very same manner as in the petition which again says shall be verified in the manner provided in the Civil Procedure Code. The annexures to the petition are not verified at all. The annexures are interior part to the petition and the very First annexure is a letter which started the very process of this disqualification movement, that we have tendered our suggestions from the Political Party.

So that is the interior part of the Petition and if that is not verified then the whole petition is to be dismissed.

While replying to the next point the petition filed by Dr. Wilfred D'Souza be referred to prayer (c) that the above petition be entrusted to the Deputy Speaker in view of the fact that the Speaker of the House Dr. Luis Proto Barbosa being the Leader of the Goan Peoples Party and signatory to the letter besides the six members is an interested party who cannot be a Judge in his own case. So the original petition was filed in the Supreme Court because Supreme Court has no jurisdiction in the matter. It was the matter directing the Supreme Court to order the Deputy Speaker to try this petition. He withdraw petition without any anomaly whatsoever, that he can file this petition before the Speaker who has not been disqualified. After the withdrawal of the petition no other petition for disqualification was filed before the Speaker by the Leader of the House. He further submitted that as far as the party on delays was concerned he referred to the Supreme Court on the point of reasonableness. It was a question of revision. It was not a Writ Petition. Question was what is the time for filing a revision or what is the time for passing an order in revision and the Court had held when statute does not prescribe time for doing something, that has to be done within reasonable time statute itself construes certain things that should be done within reasonable time and the Supreme Court had held that a few months time would be reasonable. A reference has been made here to the Doctrine of Reasonableness has been made in connection with the disqualification petition pending over dispute. He further contended that whenever the time is not prescribed the matters are to be dealt with by applying the Doctrine of Reasonableness. This is not in connection with the writ petition. This exactly and precisely the point of disqualification. Lastly it was argued that in the matter of representation in representative body it is of utmost importance that the challenge must be prompt and forthwith. In this context, the High Court had held that even though there is no time limit, he should come within the reasonable time.

After hearing the arguments and counter arguments from the Respondents and Petitions I have come to the conclusion as follows:

As regards the issue No. 4 regarding verification I would not like to discuss much as in this particular case the petitioner's Advocate has argued that the source of information has been disclosed and does not vitiate and I am inclined to agree with him.

As regards the issues 1, 2, 3, it is pertinent to note that the cause of action arose on 24-3-1990 and petition was filed on 4-1-1992 i. e. almost after two years and that no justification is given by the petitioner for delay in filing the petition and earlier also a similar petition was dismissed on the grounds of technicalities of verification wherein the petitioner was a signatory and thereto no fresh application in proper format nor any review petition was preferred thereby showing complete lack of interest on the part of the petitioner. It is further significant to note that the

Judgement of Dr. Kashinath Jhalmi disqualifying Dr. Luis Proto Barbosa was pronounced on 14-12-1990 even at this point of time the petitioner could have filed the disqualification petition against the Respondents but it was also not done. In the famous Court Judgement Dhartipakar Madan Lal Agarwal, v/s Shri Rajiv Gandhi, Supreme Court AIR 1987 at page 1577, also speaks reasonableness of time of filing the election petition which could also be made applicable in the cases of disqualification petitions on the Tenth Schedule to decide the Doctrine of Reasonableness of time.

It may also be mentioned that the withdrawal of the Writ Petition No. 492 of 1990 in Supreme Court on the same alleged cause of action by Dr. Wilfred D'Souza the Leader of the Congress-I Legislature Party and therefore this petition amounts to Res-Judicata and therefore, I prefer to agree with the Respondent on this point also.

Therefore my findings to the issues at 1, 2, and 3 are answered in the affirmative.

As regards the arguments of the petitioner that Dr. Barbosa who has since been disqualified should not be counted to constitute a group consisting of 1/3 of the Members of Legislative Party. I am not inclined to agree with the same because the split being one time process and the subsequent disqualification of Dr. Luis Proto Barbosa cannot be taken into consideration for this purpose.

In the result all the petitions are dismissed. No order as to costs.

Sd/-

Panaji-Goa, (SHAIKH HASSAN HAROON)
Dated: 15th September, 1994. Speaker

To :

1. Shri Luis Alex Cardozo, MLA
2. Shri Somnath Zuwarkar, MLA
3. Shri J. B. Gonsalves, MLA
4. Shri Mauvin Godinho, MLA
5. Shri Churchill Alemao, MLA
6. Smt. Farrel Furtado e Gracias, MLA
7. Shri Victor Gonsalves, MLA
8. Dr. Wilfred D'Souza, Leader of Congress (I) Party, Panaji-Goa.
9. Secretary, Chief Election Commission of India, New-Delhi.
10. Chief Secretary, Government of Goa, Panaji-Goa.
11. Secretary to Governor, Goa.

Copy to: *

The Chief Minister of Goa,
Panaji-Goa.

Assembly Hall,
Panaji-Goa.
15th September, 1994.

ASHOK B. ULMAN
Secretary

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

LEGISLATURE SECRETARIAT

Notification

No. LA/A/2608/1994

The following decision dated 22nd October, 1994 of the Speaker of Legislative Assembly of State of Goa given under Rule 8 (2) of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 framed under the Tenth Schedule of the Constitution of India is hereby notified and published,

No. 93

Legislative Assembly of the State of Goa Bulletin Part-II

Saturday, the 22nd October, 1994/Asvina 30/Saka, 1916

93. The following decision dated 22nd October, 1994 of the Speaker of Legislative Assembly of the State of Goa given under Rule 8(2) of the Members of Goa Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 framed under the Tenth Schedule to the Constitution of India is hereby notified and published.

"In the matter of Petition filed by Shri Pandurang D. Raut, MLA against Shri Dharma Chodankar, MLA.

Order

Reference No. 7/92

Shri Pandurang D. Raut, MLA — Petitioner.
V/s.
Shri Dharma Chodankar, MLA — Respondent.

Shri Pandurang Raut, MLA of the Legislative Assembly of the State of Goa has filed a petition on 9-1-92 against Shri Dharma V. Chodankar, MLA of Legislative Assembly of the State of Goa that Shri Dharma V. Chodankar be disqualified for being a Member of the House under Article 191(2) of the Constitution of India read with the Tenth Schedule of the Constitution on the following grounds.

1. The respondent Shri Dharma V. Chodankar, MLA attended the Session of the Goa Legislative Assembly held on 13-12-91 to 27-3-1991 but voted contrary to the directives issued by M. G. Party (Ravi Naik Group) thereby the respondent has incurred disqualification under para 2(i) (a) & (b) of the Tenth Schedule of the Constitution of India.

2. The respondent and Shri R. D. Khalap, Leader of M. G. Party were given a copy of the petition to furnish their comments within 7 days from the date of receipt of the same under Rule 7 of Members of Goa Legislative Assembly (Disqualification on Grounds of Defection) Rules 1986.

3. Shri R. D. Khalap and the respondent Shri Dharma Chodankar, vide their letter, dated 17-1-1992 prayed 2 weeks and 3 weeks time respectively for filing their comments and were granted time till 16-3-92 to file their comments.

4. The petitioner vide his application dated 15-1-1992 prayed for amendments of the plaint stating that in the said petition the typing error has occurred on page 1, line 2 wherein instead of words "Maharashtrawadi Gomantak Party" the words "Indian National Congress" has been typed and he further stated that the said error was on account of typing lapse and the amendment may be carried out in the following terms. Delete the words "Indian National Congress" appearing in para No. 1 in line 2 on page 1 and substitute the words "Maharashtrawadi Gomantak Party".

5. As the petitioner stated it was a typing error and it was apparent on the face of record the amendment of the petitioner was allowed.

6. The respondent Shri Dharma V. Chodankar and Shri R. D. Khalap, Leader of M. G. P. Party filed their comments on 27-2-1992.

7. The respondent subsequently made an application on 7-4-1992 for amendment of written statement stating that after para 4 add the following para 4 (a) without pre-judice to the foregoing and without admitting any averments of admitting the petition it is submitted as follows:

(a) The so-called Maharashtrawadi Gomantak Party (Ravi Naik Group) with all its so-called members including petitioner herein have merged/joined the Indian National Congress (I). The Maharashtrawadi Gomantak Party (Ravi Naik Group) therefore does not exist and hence the petitioner has no locus standi and cause of action with the respondent herein. The petition is therefore liable to be dismissed in limine. Advocate for the petitioner did not object to the amendments and the same was carried out.

The facts of the case are as follows:—

The contention of the petitioner is that the respondent alongwith the petitioner and six other members of the Legislative Assembly belonging to the Maharashtrawadi Gomantak Party namely S/Shri Ravi S. Naik, Shankar K. Salgaonkar, Ashok T. Naik Salgaonkar, Sanjay Bandekar, Ratnakar Chopdekar and Vinaykumar Usgaonkar, declared a split in the Maharashtrawadi Gomantak Party and constituted a separate party known as "Maharashtrawadi Gomantak Party" (Ravi Naik Group) at a meeting held on 24-12-90 at the residence of Shri Ravi Naik at Ponda.

The petitioner states that the other members of the Legislative Assembly constituted a split has confirmed that the

fact in the replies filed by them as well as in their affidavits in the matter of reference Nos. 3/91, 4/91, 5/91, 6/91 as well as in the review application filed by Shri Ravi S. Naik and S/Shri Ratnakar Chopdekar and Sanjay Bandekar.

The petitioner further states that subsequently the respondent defected again from "Maharashtrawadi Gomantak Party" (Ravi Naik Group) and joined "Maharashtrawadi Gomantak Party". The respondents has even confirmed the position of his subsequently being in the Maharashtrawadi Gomantak Party (Ravi Naik Group) in his letter dated 14-1-1992 addressed to H. E. the Governor of Goa with a copy thereof addressed to the Hon. Speaker. Thus the respondent has voluntarily given up the membership of the Maharashtrawadi Gomantak Party (Ravi Naik Group) and has incurred disqualification under para 2 (1) (a) & (b) of the Tenth Schedule.

The Petitioner states that the Leader of the M. G. P. Party (Ravi-Naik Group) has submitted the information to the Hon. Speaker about the Constitution of split in the party on 12-2-91 and again in the prescribed form on 18-2-1991.

The petitioner further states that the M. G. P. (Ravi Naik Group) issued whip which was published in the daily newspaper calling upon the members of M. G. P. (Ravi Naik Group) to attend the Session of the House and vote in accordance with the directives of the M. G. Party (Ravi Naik Group). The respondent attended the session of the Legislative Assembly held on 13-2-1991 to 27-3-1991 but voted contrary to the directives issued by the M. G. Party (Ravi Naik Group). The respondent therefore has incurred disqualification under para 2(1) (a) & (b) of the Tenth Schedule to the Constitution of India. The contention of the petitioner is that no prior permission was obtained for such act nor the same was condoned by the M. G. Party (Ravi Naik Group). In the circumstances the petitioner is satisfied and has reasonable grounds to believe that the respondent has become subject to disqualification under the Tenth Schedule.

The petitioner therefore submits that the respondent has incurred disqualification under para 2(1) (a) & (b) of Tenth Schedule of the Constitution of India for being a member of the House.

The respondent filed his comments on 27-2-1992 and stated therein that the petition is barred by laches/limitation and is vitiated by political bias and malafides.

The respondent denies that along with the petitioner or any other Members of the Legislative Assembly belonging to the Maharashtrawadi Gomantak Party or S/Shri Ravi S. Naik, Shankar Salgaonkar, Sanjay Bandekar, Ratnakar Chopdekar, Vinaykumar Usgaonkar and the respondent declared a split in M. G. P. or constituted a separate party known as Maharashtrawadi Gomantak Party (Ravi Naik Group). He further denies that there was any split in the M. G. P. and the respondent is not at all aware and does not admit that any meeting took place on 24th December, 1990 at the residence of Shri Ravi S. Naik or was attended by S/Shri Gurudas Malik or Avinash Bhonsle or any other members of the M. G. P.

The respondent states that the purported split in the MGP claimed by S/Shri Ravi S. Naik, Shankar Salgaonkar, Ashok T. Naik Salgaonkar, Sanjay Bandekar, Ratnakar Chopdekar, Vinaykumar Usgaonkar and the petitioner is fictitious and that the affidavits allegedly filed by them in the matter of references Nos. 3/91, 5/91, 4/91, 6/91 as also purported review application filed by Shri Ravi S. Naik and S/Shri Ratnakar Chopdekar and Sanjay Bandekar are false.

The respondent states that in the morning of 14th January 1991 the respondent was gheraoed by S/Shri Ravi S. Naik, Shankar K. Salgaonkar and the petitioner, MLAs at Ribandar and under duress forced him to sign on a paper purporting to claim a split in the MGP Legislature Party. The respondent therefore addressed a letter on 14-1-1991 to the Hon. Speaker and also the Governor of Goa of the said action of S/Shri Ravi S. Naik, Shankar K. Salgaonkar and the petitioner and the respondent pledging his continued support to the MGP and Shri R. D. Khalap, the Leader of the MGP Party. The respondent denies that there is any Party known as MGP (Ravi Naik Group) or that the respondent was at any time its Member. He further denies that he defected from the fictitious MGP (Ravi Naik Group) or gave up the membership of the alleged party. The respondent denies that he has incurred disqualification under para 2 (1) (a) & (b) of the Tenth Schedule to the Constitution of India. The respondent

is not aware and does not admit that the fictitious Leader of the MGP (Ravi Naik Group) has submitted any information to Hon. Speaker or about the Constitution of the alleged split party on 12-2-1991 or in a prescribed form on 18-2-1991.

The respondent states that the purported minutes of the alleged meeting of 24-12-1990 are bogus and fabricated much later. The purported signatures on the minutes have been obtained much later, after 24-12-1990. The respondent's signatures was forcibly procured on 14-1-1991. Neither the name nor the signature of the respondent nor of Shri Vinaykumar Usgaonkar appear on the alleged MGP meeting on 24-12-1990. Shri Vinaykumar Usgaonkar was with the MGP at least as late as on 31-1-1991 as witnesses his signatures on the minutes of the meetings. The parties filed their draft issues out of which the following were treated as the preliminary issues:

- 1) Whether the respondent proves that the petition is liable to be dismissed in limine for laches, delay and limitation.
- 2) Whether the respondent proves that the petition is liable to be dismissed in limine for non-compliance with the provision of disqualification on ground of defection rules and especially absence of verification of the petition and documents accompanying it.
- 3) Whether the respondent proves that the annexures are not verified in the prescribed manner.
- 4) Whether the respondent proves that the petition is liable to be dismissed in limine on the ground that M. G. P. (Ravi Naik Group) is not and was never in existence and the petitioner therefore has no locus standi to file the petition for disqualification.

While arguing the issue No. 1 the learned council for the respondent Shri Ramakant D. Khalap stated that the petition is liable to be dismissed in limine for laches, delay and limitation. He referred the judgements of the High Court of Judicature of Bombay, Goa Bench, in the writ petition Nos. 8 of 1992 and 11 of 1992 first of which was filed against Shri Sanjay Bandekar and Shri Ratnakar Chopdekar by Shri Ramakant D. Khalap, petitioner and the second was filed by Dr. Kashinath Jhalmi and Shri Ramakant D. Khalap, petitioners against Shri Ravi S. Naik, in these judgement of the High Court has held that the petitions are not liable on the ground of delay and laches. He quoted paragraph 23 of the writ petition No. 11 of 1992 judgement dated 4th February, 1992, where it was held by High Court, taking into consideration the above mentioned facts and submissions, we are of the opinion that by not challenging the order of the Deputy Speaker dated 7th and 8th March, 1991 within reasonable time by taking the role of silent spectator at the time of the order of dismissal dated 22nd April, 1991, writ petition No. 48 of 1991 the petitioners by their conduct are stopped from challenging the impugned order of the Deputy Speaker dated 7th & 8th March, 1991. The identical point in both the cases is that after the date which is alleged that the cause of action arose, the petitioner remained silent without taking any action for a considerable long period and further he has not explained his reasons for the delay. According to the petitioner, the cause of action arose on 14-1-1991, when the respondent came back to the original M. G. P. Party. There is no limit prescribed to file the petition in the Tenth Schedule of the Constitution of India.

Shri Ramakant Khalap argued the issue No. 2 and 3 as regard verification of the petition and the documents accompanying it and also stated further that the annexures are not verified in the prescribed manner. Verification must be there in the affidavit, otherwise no annexures can stand.

The counsel for the respondent submitted that the petitioners statements in the respective paras made by him in the plaint and while verifying the same stated that whatever statements made by him in the plaint are true to his own knowledge. Even some of the legal submissions have been termed by the petitioners that they are true to his own knowledge. The prayer made in the petition has also been stated that it is true to his own knowledge. Therefore, the counsel laid stress that it was a bad and the faulty verification and therefore prayed the petition is liable to be dismissed in limine. The petitioner himself has not filed any affidavit in this case and the verification that he has relied on the annexures, the annexures should have been verified in the same manner as the petition is verified.

Rule 6 of the Members of the Goa Legislative Assembly (Disqualification on grounds of Defection) Rules, 1986 speaks how the petition is to be filed. No reference for any question as to whether a member has become subject to disqualification under the Tenth Schedule shall be made except by a petition in relation to such member in accordance with the provision of this rule. No reference for any question as to whether a member has become subject to disqualification under the Tenth Schedule shall be made except by a petition in relation to such member in accordance with the provision of this rule.

Every petition (a) shall contain a concise statement of the material facts on which the petitioner relies (b) shall be accompanied by copies of the documentary evidence if any, on which the petitioner relies and where petitioner relies on any information as furnished by each such person. He pointed out in the petition certain information given is obtained from a particular source. In the verification it should have been stated under para 6(b). Then vide rule (6) of the Rules every petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for verification of pleadings. The Rule (7) every annexures to the petition shall be signed by the petitioner and verified in the same manner as the petition. This is according to Rule 6 sub-rule 7.

On receipt of the petition under Rule 6, the Speaker shall consider whether the petition complies to the requirement of this Rule 6(2). If the petition does not comply with the requisite requirements of the rules, the Speaker shall dismiss the petition and intimate the petitioner accordingly. So the verification and the annexures is mandatory under Rule 6. In support of his contention the counsel for the respondent relied on the two orders passed by Hon. Speaker Shri Surendra Sirsat dated 18-12-90 filed by Shri Domnick Fernandes & versus six members of the Legislative Assembly and second dated 6-2-1991 filed by Shri Mohan Amshekar versus six members of the Legislative Assembly.

The counsel for the respondent referred to the para 11 of the petition wherein the petitioner stated therein that he wishes to place on record that subsequently Maharashtrawadi Gomantak Party (Ravi Naik Group) has merged into Congress (I). And in respondent's amendment to his reply a specific averment was made in para 4 A. says - that without prejudice of foregoing and without admitting any averments of the petition it is submitted as under: The so-called Maharashtrawadi Gomantak Party (Ravi Naik Group) together with all its so called Members, including the petitioner herein have merged or joined the Indian National Congress (I), the M. G. P. (Ravi Naik Group) does not exists.

This statement has been made and this has gone without any objection. The advocate has not replied to this. No affidavit has been filed on this.

There was a party formed called Maharashtrawadi Gomantak Party (Ravi Naik Group) after the split in the original M. G. P. and the whole M. G. P. (Ravi Naik Group) joined the Congress (I) and after the M. G. P. (Ravi Naik Group) joined the Congress (I), the M. G. P. (Ravi Naik Group) was no more in existence.

In support of his contention, the counsel for the respondent relied upon the similar case, Stewart Science College & anr. V/S. Braja Sundar Das & Ors. A. I. R. 1969 Orissa 137.

He further contended that any member can file a petition in writing to the Speaker, there need not be a group whether it is M. G. P. (Ravi Naik Group) or not and therefore he quoted Rule 2 sub-rule 6 of (The Member Disqualification on the ground of Defection Rules) 1986. According to the respondent they did not recognise MGP (Ravi Naik Group) at all and they say that there was no such group. But the counsel for the petition argued further and referred to the matter before the Election Commission for claiming the symbol and the same was contested by the MGP and to that there is a speaking order, of the Election Commission which was decided in MGP's favour. He further stated that on the date when the defection took place there was MGP (Ravi Naik Group) and the respondent defected from MGP (Ravi Naik Group).

The counsel for the petitioner referred to para 7 of the petition on the other hand the counsel for the petitioner submitted that there is no limitation prescribed to file such type of petition. For this, he cited Rule 3, 4 and 6 of the Member Disqualification on Grounds of Defection Rules

wherein time was prescribed for particular act. The contention of the counsel was that in the absence of the prescribed period, the Limitation Act comes into force and the only sections that may be applicable here is 133 or 137 of the limitation Act. In both sections the limitation prescribed is three years. He further submitted that two judgements on which the respondent relied upon are not at all applicable in this case because that is on totally different footing this is the petition filed before the Speaker and in the other petition. Wherein the order has been passed about the laches being fatal to the filing of the petition, that the leader of the MGP (Ravi Naik Group) has submitted the information to the Hon. Speaker about the constitution of split party on 12-2-1991 and again in prescribed form on 18-2-1991.

The counsel for the petitioner submitted that the verification done by him is proper. According to him that even otherwise assuming that it is not proper, it is not fatal. It can be cured.

While replying to the point raised by the counsel for the respondent regarding the improper verification the counsel for the petitioner stated that the other members of the Legislative Assembly who constituted a split have confirmed the fact into replies filed by them as well as in their affidavit in the matter of reference Nos. 3/91, 4/91, 5/91, 6/91 as well as in the review application filed by Shri Ravi S. Naik, and S/Shri Ratnakar Chopdekar and Sanjay Bandekar. The petitioner craves leave to refer to and rely upon the said proceedings before Hon. Speaker. As far as knowing the same to his own knowledge is concerned, the counsel submitted that they have been part of the proof, everything which was done on one table. He further contended that they know what affidavits have been filed by them and they stood by them and that they stand by their statement that they know what was sworn in. These affidavits so to say what they know is nothing bad at all in that. They very much know about that.

He further contended that if the petition is signed by a lawyer and it is not verified it is not fatal. To lay stress on his argument he referred to the *Supreme Court's decision 1964 page 1545-Representation of People's Act (1951) Sec. 32. Act (1951) S, 33(1) (C)-Election Petition-Verification defect in -Defect can be cured-it is not fatal to Election Petition.*

A defect in verification in the matter of election petition is a matter which comes within Cl (c) of Sub S (1) of S 83. The defect can be removed in accordance with the principles of Code of Civil Procedure 1908. Such a defect does not attract sub S (3) of S 90 in as much as that sub-section does not refer to non-compliance with the provisions of S. 83 as a ground for dismissing an election petition. Hence reading the relevant sections in Part VI of the Act it is impossible to accept the contention that a defect in verification which is made in the manner laid in the code of Civil Procedure 1908 for verification of pleadings as required by Cl (c) of sub S(1) of S. 83 is fatal to the maintainability of the petition.

He further quoted a case where a pleader signed and the party did not sign i.e. 1977 Himachal Pradesh. Civil procedure Code order 6, Rule 13 and 15. He also quoted AIR 1961 Bombay.

He further pointed out Civil Procedure Code order 6 rule 14 and 15 provisions which merely relates to procedure defects in preserving, signing of verification of plaint not fatal can be cured by amendment even after limitation.

On the point of annexures the photocopies of which are filed by the petitioner. The counsel states that the originals will be provided at the time of evidence and he was not bound to give the original at this stage. The annexures are attested by the notary after seeing the originals. He further stated that the petition can be filed without a document also.

After hearing the facts and submissions made by both the parties my findings are as follows:—

As regards the issue No. 1 regarding laches, delay, and limitation I fail to understand why this petition has been filed after a period of one year, in the entire petition there is not even single statement made regarding the cause for delay of filing petition after a period of one year. The respondent in this case went back to the original party MGP after defecting from the MGP (Ravi Naik Group) on 14-1-1991 and the said petition has been filed by the petitioner on 9-1-1992 that is after a period of one year. I find that there

has been a deliberate and a intentional delay in filing the petition and the said petition has been filed after the writ petition in the High Court against Shri Ravi Naik and two other Members were filed and after the Supreme Court's judgement on para 7 of the Tenth Schedule to the Constitution of India. Though the case merits elucidating evidence to verify certain facts I find that no purpose will be served as the petitioner is at fault for not filing this petition on the date of cause of action, hence this issue is decided against the petitioner.

As regards issue No. 2 & 3, the para (6) of Tenth Schedule of the Tenth Schedule states that every petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure Code 1908 (Central Act 5 of 1908) for verification of pleadings. Then para (7) of Tenth Schedule every annexures to the petition shall be signed by the petitioner and verified in the same manner as the petition. The verification of the petition and the annexures is mandatory under Rule-6. The petitioner himself has not filed any affidavit in this case and in the verification the petitioner has relied on annexures, the annexures should be verified in the same manner as the petition is verified.

The petitioner in his verification has stated that the statements i. e. his averments made by him in the forgoing paras are true to his own knowledge. Even some of the legal submission averted in his' plaint has been said that its true to his own knowledge. Therefore the verification of the petitioner is bad and faulty and it is also not in accordance with the Code of Civil Procedure Code. This issue is also answered against the petitioner. As regards issue No. 4 the petitioner have already stated in para 11 of the petition that the petitioner wishes to place on record that subsequently Maharashtrawadi Gomantak Party (Ravi Naik Group) has merged into Congress-I and to the amendment the respondent in his reply has specifically averted in para 4A- that without prejudice of the foregoing and without admitting any averments of the petition it is submitted as under:— The so

called MGP (Ravi Naik Group) together with all its so called Members, including the petitioner herein have merged or joined the Indian National Congress-I, MGP (Ravi Naik Group) does not exists and hence the petition has no locus standi and the cause of action against the respondent herein. To this averment no replies has been filed by the petitioner.

There was a party called M.G.P. (Ravi Naik Group) after the split in the original M. G. P. and the whole M. G. P. (Ravi Naik Group) joined the Congress-I together with all its members including the petitioner herein and M. G. P. (Ravi Naik Group) was no more in existence, hence there was no group existing at the time of filing this petition hence the issue is answered against the petitioner.

Therefore my findings to the issues at 1, 2, 3 and 4 are answered in the affirmative.

I therefore, dismiss the petition. No order as to costs.

(SHAIKH HASSAN HAROON)
Speaker

Panaji-Goa

Dated: 22nd October, 1994.

To:

- 1) Shri Dharma Chodankar, MLA.
- 2) Shri Pandurang D. Raut, MLA.
- 3) Shri Ramakant D. Khalap, Leader of Maharashtrawadi Gomantak Party, Panaji-Goa.
- 4) Secretary, Chief Election Commission of India.
- 5) Chief Secretary, Government of Goa, Panaji Goa.
- 6) Secretary to Governor, Goa.

Copy to:

The Chief Minister of Goa, Panaji-Goa.

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

No. 3

GOVERNMENT OF GOA

Goa Legislature Secretariat

Notification

No. LA/A/4042/1998

The following decision dated 14th August, 1998 of the Speaker of Legislative Assembly of State of Goa, under Article 191 (2) of the Constitution of India of the Tenth Schedule of the Constitution of India is hereby notified and published.

No. 117 The following decision dated 14th August, 1998 of the Speaker of Legislative Assembly of State of Goa under Article 191(2) of the Constitution of India under Tenth Schedule of the Constitution of India is hereby notified and published.

Petition No. 1 of 1998 under Article-191(2) of the Constitution of India by Shri Pratapsingh R. Rane.

V/S

1. Dr. Wilfred A. D' Souza.
2. Shri Dayanand G. Narvekar.
3. Shri Subhash A. Shirodkar.
4. Shri Pandurang Bhatale.
5. Shri Pandu V. Naik. ... Respondents.

Petition No. 2 of 1998 under Article 191 (2) of the Constitution of India by Dr. Wilfred Mesquita.

V/S

1. Dr. Wilfred A. D'Souza.
2. Shri Dayanand G. Narvekar.
3. Shri Subhash A. Shirodkar.
4. Shri Pandurang Bhatale.
5. Shri Pandu V. Naik.

6. Shri Chandrakant Chodankar.
7. Dr. Carmo Pegado.
8. Smt. Fatima D'Sa.
9. Shri Jagdish Acharya.
10. Shri Deo G. Mandrekar. ... Respondents.

JUDGEMENT

1. The two Petitions have been filed for a declaration that the Respondents therein, have become subject to Disqualification under the Tenth Schedule of the Constitution of India.

2. Since the Petitions raise identical and inter-connected issues and the Respondents in Disqualification Petition No. 1/98 are also Respondents amongst others in Disqualification Petition No. 2/98, these Petitions were taken up together and common arguments advanced and therefore, can be conveniently disposed by a Common Judgement. The learned Advocates for the parties requested that both the petitions be clubbed together.

3. Both Petitions were filed on 27th July, 1998. On perusing the Petitions and the annexures thereto, it was verified that the petitions complied with the requirements of Rule 6 of "The Members of the Goa Legislative Assembly (Disqualification on Grounds of Defection) Rules, 1986" hereinafter referred to as "The Disqualification Rules 1986" for short and therefore Notice for interim relief was directed to be issued to each of the Respondents in each Petition returnable on 28th July, 1998 and as far as the main Petitions, summons were directed to be issued to the Respondents in each Petition, returnable on 3rd August, 1998.

4. In the Notice dated 27-7-1998, for grant of interim relief, it had correctly been mentioned that the question of grant of interim relief, the Petitions would be heard on 28-7-1998. However, inadvertently the Public Notice issued in the Press contained the returnable date for interim relief as 28th August, 1998 instead of 28th July, 1998.

5. On 28th July, 1998, learned counsels for the Petitioners were present. Despite waiting for quite a while, neither Respondents nor any person on their behalf appeared. At about 12.45 p. m., Petitioner

Dr. Wilfred Menezes Mesquita through his learned counsel, made an application renewing the request for ad-interim relief. After hearing the learned counsel for the afore-referred Petitioner, ad-interim order was passed at about 1.30 p. m., which is on record, and the matter was posted for confirmation of ad-interim relief on 29th July, 1998.

In the meanwhile, the Secretariat of the Legislative Assembly received copy of a communication addressed to the Governor of Goa wherein it was inter alia contended that Speaker had no powers to pass interim orders, which has also been placed on record.

6. On 29-7-1998, Petitioners were represented by their Counsels and Respondents were represented by Dr. J. E. Coelho Pereira, Senior Advocate with Shri Mahesh Rane.

7. Arguments were heard. However since learned Senior Advocate Dr. Coelho Pereira made a plea that he required time to go through the Petition and annexures and also be prepared for arguments, the Petitions were adjourned on the question of confirmation of ad interim relief to 31-7-1998 at 4.30 p. m.

8. In the meanwhile, the Respondents filed Writ Petitions before the Honourable High Court of Bombay, Panaji Bench being Writ Petition No. 296/98 and Writ Petition No. 297/98 raising various pleas as contained therein, copies of which are on record.

9. On the next date of hearing viz. on 31-7-1998, request was made on behalf of the Respondents for grant of time, to enable the Respondents to file a detailed reply on the question of interim relief as also on the merits of the Petitions. Therefore, adjournment was granted and the matters were adjourned to 3rd August, 1998 at 10.30 a. m. viz. when summons in the Petitions had been made returnable.

10. On 3rd August, 1998, Respondents filed a comprehensive reply to each of the Petitions on the question of interim relief and also on merits of each Petition. On request of Shri S. Vahidulla, learned Advocate for the Petitioners, the matters were adjourned to Tuesday, 4th August, 1998 at 10.30 a. m.

11. On 3rd August, 1998, the Honourable High Court pronounced its Judgements in the above-referred Writ Petitions wherein the Honourable High Court upheld the power of the Speaker to grant interim including ad interim Orders. For reasons set out in its Judgement, the High Court quashed the ad interim Orders passed on 28-7-1998.

I have been set right and corrected by the Honourable High Court for passing the interim Order on the ground that I had taken decision in undue haste, which was in violation of the principles of natural justice. I have therefore fallen in line that I should not hastily decide the present matter and have therefore to objectively to decide the matter in accordance with the principles of law, laid down by the Honourable High Court.

12. On 4th August, 1998, learned Advocates Shri A. N. S. Nadkarni with Shri C. A. Ferreira and Shri S. Vahidulla, appeared for the Petitioners. Learned Senior Advocate Dr. J. E. Coelho Pereira with Adv. Vilas Thali and Adv. Mahesh Rane appeared for the Respondents. Shri Nadkarni filed Rejoinder in each of the Petitions to the reply of the Respondents. Dr. Coelho Pereira submitted an application dated 4-8-1998 raising plea of bias and requested that this issue be taken first and a ruling be given before proceeding with the merits of the Petitions. Dr. Coelho Pereira also stated that he was prepared to argue the matter finally and expressed his readiness in this regard.

I informed Dr. Coelho Pereira that the entire arguments could be heard and the issue of Bias would be decided in the Judgement on merits.

13. At the outset of the hearing, Shri Nadkarni, learned Advocate for the petitioners drew my attention to sub-rule 3(b) of Rule 7 of the Disqualification Rules, 1986 which requires a copy of the Petition to be forwarded to the Leader of the Legislature Party for his comments and since Disqualification Petition No. 2/98 was not filed by the Leader of the Indian National Congress Legislature Party he contended that notice ought to be issued to him and in the meanwhile the question of interim relief could be proceeded with and, the hearing in the main Petition be adjourned. Against this, Dr. Coelho Pereira vehemently opposed this contention. Dr. Coelho Pereira submitted that the requirement was not mandatory as the Disqualification Rules are mere procedural rules and not binding and at any rate, the Leader of the Indian National Congress Legislature Party, Shri Pratapsing Rane had himself filed Disqualification petition No. 1/98 and notwithstanding these facts, he would not raise any objection at any future stage as to the non-compliance of this provision. He opposed any adjournment of the hearing and demanded that Final Hearing of the Main Petition be proceeded with and the question of separating the arguments on merits and arguments on interim reliefs in the present cases, ought not to be permitted.

I am unable to accept the argument of Shri Nadkarni. I agree with Dr. Coelho Pereira that the hearing of the matters should proceed since the Rules are mere procedural rules. I am further of the opinion that since Dr. Coelho Pereira himself has submitted that he will not raise any objection as to non-compliance of Rule 6(3)(b) of the Disqualification Rules, 1986, no point would be served in further delaying the matter, on the point raised by Shri Nadkarni. I therefore directed the respective advocates to proceed. Both parties expressed that they did not want to lead any evidence and were fully anxious to argue the matters. Accordingly, arguments were fully heard till 1.45 p. m. on 4-8-1998 itself.

I have heard Shri A. N. S. Nadkarni for the Petitioners and Dr. J. E. Coelho Pereira for the Respondents at considerable length.

14. In view of the plea of bias raised by the Respondents, and specially on account of the Motion of Confidence proposed to be tabled, I would have avoided to decide the matter because of such accusation. However, since I am left with no option but to decide the matter, I propose to go into the questions honestly and to the best of my ability.

15. For appreciation of the controversy between the parties it may be necessary to advert to the pleadings of the respective parties, which can be briefly summarised as hereinunder.

- a) The Petitioner, Shri Pratapsingh Rane has filed a Disqualification Petition No. 1/98 on 27th July, 1998 for a declaration that the Respondents therein have become subject to Disqualification under the Tenth Schedule of the Constitution of India.
- b) The Petitioner relied upon the intimation dated 25-7-98 (Exb. B Colly. to the Petition) whereto annexed is a copy of the Order dated 24-7-98 signed by Shri Shantaram Naik, the President of the Goa Pradesh Congress Committee expelling five Members namely Shri Chandrakant Chodankar, Shri Jagdish Govind Acharya, Shri Deo Mandrekar, Smt. Fatima D' Sa and Shri Carmo Pegado for reasons set out in the order dated 24th July, 1998, from the primary membership of the National Congress.
- c) It is contended by the Petitioner that two Members of the Goa Legislative Assembly namely Shri Joaquim Alemao and Shri Arecio D' Souza earlier belonging to the **United Goan Democratic Party** have been admitted as the Members of the **Indian National Congress Legislature Party**. The Petitioner relied upon the intimation dated 25-7-98, which was handed over to me on 25-7-98, along with the relevant *Form I* of the strength of the Indian National Congress Legislature Party and *Form III* pertaining to each of the Members of the Legislature Party.

- d) The Petitioner has also contended that ten Members of the House have submitted an intimation to this office dated 27-7-98 (Exb. A to the Petition) wherein it is contended by the Petitioner that what these ten Members have intimated was that they had decided to form a separate group in the **Congress (I) Legislature Party** and that there was no whisper of a split in any political party.
- e) The Petitioner contended that in view of the intimation dated 27-7-98 (Exb. A to the Petition) the above named Respondents have in no uncertain terms admitted that they have voluntarily given up membership of their original political party as defined in Clause (d) of Paragraph 1 of the Tenth Schedule of the Constitution, namely the **Indian National Congress** and consequently therefore, in view of Paragraph 2 of the Tenth Schedule of the Constitution, all the five Respondents named therein are disqualified for being Members of the House.
- f) Petitioner further contended that the Respondents cannot claim to constitute a group of not less than one-third of the membership of the **Indian National Congress Legislature Party** since according to the Petitioner the Respondents formed a group of only five persons and at the relevant time, the **Indian National Congress Legislature Party** comprised of 20 Members of the Legislative Assembly.
- g) The Petitioner contended that disqualification is automatic on the happening of eventualities specified in Paragraph 2 of the Tenth Schedule and in view of the matter, the Respondents had incurred disqualification under Article 191 (2) read with the Tenth Schedule of the Constitution of India.
- h) The Petitioner has averred in his Petition that he did satisfy himself that there are reasonable grounds that the question has arisen as to whether the Respondents have become subject to disqualification under the Tenth Schedule and therefore the Petition.

The Petitioner prayed for a declaration that Respondents therein had become subject to disqualification under the Tenth Schedule and also for interim including ad-interim reliefs as prayed therein.

16. The Petitioner, Dr. Wilfred Menezes Mesquita, in Disqualification Petition No. 2/98, has in his Petition also filed on 27-7-1998, prayed for a declaration that the Respondents named therein, have become subject to disqualification under the Tenth Schedule of the Constitution. This Petition is filed against the five Respondents named in Disqualification Petition No. 1/98 filed by Shri Pratapsingh Rane and also against five others named therein.

- a) In his Petition, Dr. Mesquita has contended that in their joint intimation dated 27-7-1998 (Exb. A to his Petition) the Respondents have not averred that there is a split in the original political party viz. the **Indian National Congress** to which the Respondents belong. He stated that the Respondents that they had decided to form a group in the **Congress (I) Legislature Party**. That there was no whisper of any split of any political party, much less the **Indian National Congress**.
- b) He further stated that in the same Legislature Party, there cannot be recognition of two groups and on account of their joint intimation dated 27-7-1998 (Exb. A) the Respondents had, in no uncertain terms admitted that they had voluntarily given up the Membership of their original political party as defined in Clause (d) of paragraph 1 of the Tenth Schedule and therefore, all ten Respondents are disqualified for being Members of the House.

Apart from relief for declaration, he also prayed for interim and ad interim reliefs.

17. In reply the Respondents have raised various and identical contentions in their reply which are summarised as herein under:

- a) That the Respondents apprehend a bias in so far as the Adjudicating Authority is concerned on grounds that there was a notice dated 13-7-98 given by three Members of the Legislative Assembly namely, Shri Manohar Parrikar, Smt. Shashikala Kakodkar and Shri Surendra Sirsat to move a resolution for Removal of the Adjudicating Authority/ /Speaker from his office.
- b) That as and when the matter would come up in the Assembly, the Respondents would have voted in favour of the motion.
- c) That they apprehended bias of the Adjudicating Authority/ /Speaker since an interim relief was granted in the absence of the Respondents, restraining the Respondents from participating in the proceedings of the House until further orders.
- d) The Respondents apprehend bias also on the ground that the Adjudicating Authority/Speaker belongs to the original political party viz. The **Indian National Congress**.
- e) That the Adjudicating Authority/Speaker has an animus against Respondent No. 1, who is the leader of the group and had staked claim at the relevant time to form the Government and is now the Chief Minister of the State. (In the application dated 4-8-1998, Respondents have contended at paragraph 2 therein, that Respondent No. 1 would be taking the Vote of Confidence which is scheduled for 19-8-1998 and the whole attitude of the Adjudicating Authority/Speaker is to prevent Respondent No. 1 from taking Vote of Confidence).
- f) That the Petition is liable to be dismissed as the same is filed against the provisions of the Disqualification Rules, 1986.
- g) That a joint Petition is not maintainable; individual petition against each Respondent/Member ought to have been filed.
- h) The Petition does not contain concise statement of material facts on which the Petitioner relies.
- i) The Petition has not been verified in the manner laid down in the Rule 6(6) of the Disqualification Rules, 1986 and annexures thereto have not been signed and verified as contemplated in Rule 6(7) of the said rules, rules 6 & 7 being mandatory in nature.
- j) That the claim in the Petition is malafide and lacks reasonable grounds.
- k) That on a true construction and meaning, the letter dated 27-7-98 clearly indicates that the only conclusion one can derive is that it was an intimation that there has been a split in the original party in the original **Indian National Congress Legislature Party** caused by Respondents and other signatories of the said letter.
- l) That the Respondents and other Members of the Respondents group namely of the **Legislative Assembly** afore referred have taken resolution and in pursuance of that resolution split from the Original **Indian National Congress**, which resolution was taken on 24-7-98 at the residence of Respondent No. 1 after the Assembly Session held on the 24th of July, 1998.

- m) In support of the evidence the Respondents have sought to rely on various documents annexed to their reply including a resolution Exhibit R9 to their reply.
- n) That the letter annexed by the Petitioner at Exb. B Colly, viz. the letter of Shri Shantaran Naik expelling the members is a manufactured and concocted letter. That in fact there was no expulsion of these Members at all for reasons set out in the reply.

18. The Petitioners in their Rejoinder controverted all the above contentions of the Respondents.

19. Before dealing with the submissions put forward by both sides it is necessary to understand the purpose of incorporation of the Tenth Schedule in the Constitution of India.

20. The Tenth Schedule of the Constitution was incorporated for the purpose of preventing defections which has been recognised as a Political evil. The statement of objects and reasons appended to the bill which was adopted as the Constitution 57th Amendment Act, 1985 says:

"The evil of political defection has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principle which sustain it. With this object, as assurance was given in the Address by the President to Parliament that the Government intended to introduce in the current session of parliament an anti-defection Bill. This bill is meant for outlawing defection and fulfilling the above assurance."

On December 8, 1967 the Lok Sabha has passed an unanimous resolution in terms following

"[A] high level Committee consisting of representatives of political parties and constitutional experts be set-up immediately by Government to consider the problem of legislators changing their allegiance from one party to another and their frequent crossing of the floor in all its aspects and make recommendations in this regard."

The said Committee known as the "Committee on Defections" in its report dated January 7, 1969, inter alia, observed:

"Following the Fourth General Election, in the short period between March, 1967 and February, 1968, the Indian political scene was characterised by numerous instances of change of party allegiance by legislators in several States. Compared to roughly 542 cases in the entire period between the First and Fourth General Election, at least 438 defections occurred in these 12 months alone. Among Independents 157 out of a total of 376 elected joined various parties in this period. That the lure of office played a dominant part in decisions of legislators, to defect was obvious from the fact that out of 210 defecting legislators, of the States of Bihar, Haryana, Madhya Pradesh, Punjab, Rajasthan, Uttar Pradesh, and West Bengal, 116 were included in the Council of Ministers which they helped to bring into being by defections. The other disturbing features of this phenomenon were: multiple acts of defection by the same person or set of persons (Haryana affording a conspicuous example); few resignations of the membership of legislature or explanation by the individual defectors, indifference on the part of defectors to political proprieties, constituency preference or public opinion; and the belief held by the people and expressed in the press that corruption and bribery were behind some of these defections."

The Committee on Defections recommended that a defector should be debarred for a period of one year or till such time as he resigned his seat and got himself re-elected from appointment to

the office of a Minister including Deputy Minister or Speaker or Deputy Speaker, or any post carrying salaries or allowance to be paid from the Consolidated Fund of India or of the State or from the fund of Government undertaking in public sector in addition to those to which the defector might be entitled as legislator. The Committee on Defections could not, however, reach an agreed conclusion in the matter of disqualifying a defector from continuing to be a Member of Parliament/State legislator.

Keeping in view the recommendations of the Committee on Defections, the Constitution (Thirty-second Amendment) Bill, 1973 was introduced in the Lok Sabha on May 16, 1973. It provided for disqualifying a Member from continuing as a Member of either House of Parliament or the State Legislature on his voluntarily giving up his membership of the political party by which he was set up as a candidate at such election or of which he became a Member after such election, or on his voting or abstaining from voting in such House contrary to any direction issued by such political party or by any person or authority authorised by it in this behalf without obtaining prior permission of such party, person or authority. The said Bill, however, lapsed on account of dissolution of the House. Thereafter the Constitution (Forty-eighth Amendment) Bill, 1979 was introduced in the Lok Sabha which also contained similar provisions for disqualification on the ground of defection. This Bill also lapsed and it was followed by the Bill which was enacted into the Constitution (Fifty-second Amendment) Act, 1985.

21. Adverting to the Tenth Schedule of the Constitution, it is necessary to ascertain the provisions which deal with disqualification and exceptions thereto. Paragraph 2 of the Tenth Schedule reads as under:

"2. Disqualification on ground of Defection:—

- (1) Subject to the provisions of paragraphs 3, 4, and 5, a member of a House belonging to any political party shall be disqualified for being a Member of the House,—
- a) if he has voluntarily given up his membership of such political party; or
 - b) If he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation— For the purposes of this sub-paragraph,—

- a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for the election as such member.
- b) a nominated member of a House shall,—
 - i) where he is a member of any political party, on the date of his nomination as such member, he deemed to belong to such political party,
 - ii) In any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

....."

22. Paragraph 3 of the Tenth Schedule of the Constitution provides that Disqualification on ground of defection is not to apply in case of split whilst paragraph 4 of the Tenth Schedule of the Constitution provides that Disqualification on ground of defection not to apply in case of merger.

23. Since controversy revolves around paragraph 2 and paragraph 3 of the Tenth Schedule, no further reference need be made to paragraph 4 of the Tenth Schedule.

24. Paragraph 3 of the Tenth Schedule of the Constitution of India provides as under:

“3. *Disqualification on ground of defection not to apply in case of split* – Where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such legislature party

(a) he shall not be disqualified under sub-paragraph (1) of paragraph 2 on the ground:

(i) that he has voluntarily given up his membership of his original political party; or

(ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this paragraph.”

25. In view of the leadings, the common questions that arise for my determination are as follows:

- a) Whether the Petitioners prove that the Respondents have become subject to Disqualification on ground of defection as contained in paragraph 2 of the Tenth Schedule of the Constitution of India ?
- b) Whether the Respondents prove that a joint Petition is not maintainable and individual petitions are required to be filed against each Respondent ?
- c) Whether the Respondents prove that the Petitions are not maintainable as the same do not contain concise statement of material facts on which the Petitioners rely?
- d) Whether the Respondents prove that the Petition is not maintainable as the same has not been verified in the manner laid down in Rule 6(6) of the Rules and Annexures thereto have not been signed and verified as contemplated in Rule 6(7) of the Disqualification Rules 1986?
- e) Whether Rules 6 and 7 of the Disqualification Rules, 1986 are mandatory in nature?
- f) Whether Respondents prove that Adjudicating Authority has a bias and should not hear the Petitions?

g) Whether the Respondents prove that there is a split in the original Political Party not attracting Disqualification under the Tenth Schedule as provided in paragraph 3 of the Tenth Schedule of the Constitution of India?

h) What order? What relief?

26. None of the learned Advocates expressed any desire to lead evidence and they expressed desire to argue the Petitions on merits forthwith. Therefore I heard Shri A. N. S. Nadkarni for the Petitioners and Dr. J. E. Coelho Pereira for the Respondents at length.

27. Shri A. N. S. Nadkarni, learned counsel for the Petitioners submitted that the sequence of events have to be looked at which according to him are as follows:

(i) Expulsion of five MLAs on 24th July, 1998 namely Shri Chandrakant Chodankar, Shri Jagdish Govind Acharya, Shri Deo Mandrekar, Smt. Fatima D'Sa and Shri Carmo Pegado from the primary membership of the **Indian National Congress** for having indulged in anti party Activities including attempts to embarrass the Government and tarnish the image of the **Indian National Congress** and thereby acting in a way calculated to lower the prestige of the party (Exb. B. Colly);

(ii) That two MLAs of the **UGDP** were enrolled as Members of the **Indian National Congress** on the 24th July, 1998 (Exb. B. Colly).

(iii) That as on 24th July, 1998, the strength of the Indian National Congress Legislature Party was therefore twenty.

(iv) That by intimation dated 25-7-98 handed over on 25-7-98 itself, necessary intimation of the above together with Forms I & III had been furnished to the Speaker.

(v) That the intimation dated 27th July, 1998 by Respondents to the Speaker sent to the Speaker at 12.30 p.m. on 27-7-1998, (Exhibit A to Petition) merely spoke of a meeting of the MLAs named therein, wherein it was allegedly decided to form a separate group in the **Congress (I) Legislature Party**, known as **GOA RAJIV CONGRESS PARTY**.”

(vi) That in this communication dated 27-7-98 (Exb. A to the Petition) there is no mention or whisper that they constitute the group representing a faction *which has arisen as a result of a split in the original political party*.

(vii) That the date of 24-7-1998, inserted in the letter is nothing but antedating the communication with an oblique purpose in view of the admitted expulsions.

(viii) That the intimation in fact speaks only of a decision of forming a separate group in the **Congress (I) Legislature Party**.

(ix) that there cannot be two groups in the Legislature party and also that at any rate there is no party as the **Congress (I) Legislature Party**; the party recognised by the Election Commission of India is the Indian National Congress.

(x) That Exhibit R-9 purporting to be a resolution is fraudulent, malafide and a concocted document as the same was not in existence on 24th of July; it had not been annexed to be the communication made by the Respondents to the Speaker on 27th July, 1998 or to any other authority that even this purported resolution does not indicate when the same was signed but is only brought in an attempt to overcome fatal defect in the communication dated 27-7-98 addressed to the Speaker.

(xi) That the fact of expulsion has been admitted in the Writ Petition Nos. 296/98 and 297/98 filed before the Honourable High Court by all the Respondents and was even taken as Ground I in the Petitions.

- (xii) That when five members were expelled, the defection from the original political party viz. The Indian National Congress by the remaining five members viz. the Respondents Nos. 1 to 5 in each of the two Disqualification Petitions, amounts to defection in as much as the strength of the remaining five i.e. Respondents 1 to 5 is below one-third of the total number of the members of the legislature party and hence the defections are not protected by virtue of the provisions of the Tenth Schedule of the Constitution of India.
- (xiii) That the five expelled members viz. Respondents Nos. 6 to 10 in Disqualification Petition No. 2/98, having joined another political party, have squarely become subject to disqualification under the Tenth Schedule of the Constitution of India.
- (xiv) That the **question of bias** on the first ground was not tenable since in the reply it has been admitted by the Respondents that the Notice/Motion for the Removal of the Speaker was not signed and/or moved by any of the Respondents. The question that as and when the same would come up, the same would have been supported by the Respondents is totally farfetched.
- (xv) On the aspect of the second Motion for Removal of Speaker, which is sought to be placed on record by the application dated 4-8-1998, Shri Nadkarni submitted that the same is contemptuous in that:
- (a) The Rules of Procedure and Conduct of Business of the Goa Legislative Assembly does not contemplate giving of any Notice when the House is not in session.
- (b) That the Notice of Motion now purported to have been given, from its very date and time when given is indicative of the intention of the Respondents to pre-empt totally the hearing of the present Petition in a malafide manner.
- (xvi) That on the ground of bias on account of the discrepancy in the date for interim relief Shri Nadkarni contended that the error in the publication in the newspaper was a deliberate mischief by or at the behest or instance of the Respondents. He further contended that this mischief should be investigated. At any rate the record revealed that the notice was directed to be issued returnable on the 28th of July, 1998. The personal notice to which all the Respondents correctly indicated on the 28th of July, 1998. No bias can be deduced from the same, more so when the returnable date for summons was 3rd August, 1998. Also the affidavit of Shri Yuvraj Naik also disclosed that the notice was in fact returnable on the 28th of July 1998. Ad interim had been sought for, by him on the very day of the presentation of the Petition.
- (xvii) That on the ground of bias that the Adjudicating Authority belonged to a particular political party, Shri Nadkarni referred to the Judgement of "**Kihoto Hollohan**" reported in 1992 Supple (2) SCC 651 and more particularly to Paragraph 112 up to 119 wherein this very argument has been dismissed and rejected by the Honourable Supreme Court.
- (xviii) That regarding bias on the ground that the Adjudicating Authority has an animus against respondent No. 1, it was a belated defence and low level argument without any substance or foundation totally unsupported by any document, basis, incident or data on which the allegation was made. Therefore the same is required to be dismissed.
- (xix) The apprehension in the minds of the Respondents is to be dismissed as being imaginary and totally untenable and at any rate it is not a reasonable apprehension at all.

28. Dr. J. E. Coelho Pereira, learned Senior Counsel, appearing for the Respondents made his submissions which can be summarised as herein below:

I. That the present Speaker should not hear the matter on grounds of **bias** for the following reasons:

- a) Motion of No Confidence has now been moved afresh by the present Respondents.
- b) Since ad-interim relief was granted in absence of Respondents by the undersigned, which has since been quashed by the High Court, Respondents apprehended bias.
- c) That the adjudicating authority/Speaker continues to belong to the Indian National Congress, of which the Respondents have split and the Petition has been filed by Members of the Indian National Congress.
- d) That the Adjudicating Authority has an animus against Respondent No. 1.

II. Dr. Coelho Pereira further submitted that the Petition is **not maintainable** on the ground that no concise statement of material facts on which Petitioner relies has been set out.

Learned Advocate Dr. Coelho Pereira did not raise any of the other Preliminary objections, as had been set out in the Reply of the Respondents, except the above.

III. Dr. Coelho Pereira further submitted **on merits**, that the intimation dated 27-7-1998 on its true construction and meaning clearly indicated that the only conclusion one can derive is that it was an intimation that there has been a split in the original Party namely in the Indian National Congress Legislature Party caused by Respondents and other signatories thereto, which is re-enforced by the Resolution (Exhibit R-9) to the reply.

29. Considering that issues (b), (c), (d) and (e) are in the nature of preliminary objections, it is necessary to deal with the same at the outset. However, I propose first to deal and dispose of the objection regarding bias.

30. **Regarding Issue (f)** the Respondents, counsel learned Senior Advocate Dr. J. E. Coelho Pereira at the commencement of the hearing moved a separate application dated 4-8-1998 and once again raised the plea of bias in the Adjudicating Authority. He referred to Paragraph 2 of his application dated 4-8-1998 to indicate his pleading regarding a mistake in the public notice and that this mistake was deliberately made in an attempt to prevent the Respondents from appearing at the hearing and thus enabling the Petitioner to obtain an interim relief preventing the Respondents group from participating in the Assembly proceedings.

31. He referred to the Order of the Honourable High Court in Writ Petition Nos. 296 and 297 of 1998 and more particularly paragraph 36 wherein the Honourable High Court in Page 39 has held that the right to vote is an important right.

32. He then submitted that the question of bias is not what the Adjudicating Tribunal thinks but what the Respondents apprehend. He further contended that Article 180 of the Constitution contemplates provision for appointment of another person to act as Speaker by the Governor. He relied on two decisions namely AIR 1960 SC 468 with particular reference to paragraph 10. On the question of bias he also relied on the judgement reported in AIR 1987 SC 2386. He then contended that the High Court in the judgement dated 3rd August, 1998 had held that the decision of ad interim relief was without following principles of natural justice and therefore, the present Adjudicating Authority ought not to hear the above petition and no decision ought to be given in the circumstances. He further submitted that the Speaker's office is a high Constitutional office. Therefore the judgement of the Supreme Court should be followed and the Adjudicating Authority should stay away.

33. To this Shri Nadkarni, Learned Advocate for the Petitioner contended that the allegations of bias or apprehension of bias are totally ill founded. He pointed out that the Governor had given a message for consideration of the House. The proceedings reflect that the ad interim order was passed at 1.30 p.m. on 28-7-1998 whereas the Governor's message was received at 2.00 p.m. on 28-7-1998.

There was no notice by the Respondents for Removal of the Speaker. The present motion referred to in the application dated 4-8-1998 which has been filed, is only with a view to pre-empt the hearing of the present proceedings and is not a valid motion since under the Rules for Procedure of the Business of the House, such notice can be given only when the House is in session and purely to give a lever to the respondents to raise and agitate the plea of bias.

He then submitted that mere averment of animus, is a dishonest attempt to scuttle the proceedings, more specifically when there is no material set out nor instances disclosed as to when and how the animus has arisen.

He further contended that assuming for arguments sake, though not admitting that there was a bias. It was pertinent to see the provisions of the Tenth Schedule and more particularly Paragraph 6 which provided that the decision on questions as to disqualification on grounds of defection is to be determined by the Speaker of the House and it is only when a question arises as to whether the Speaker of the House himself has become subject to disqualification, only then that the question shall be referred for decision to such member of the House as the House may elect in this behalf.

He then referred to Article 180 of the Constitution and stressed that sub-Article (1) to Article 180 of the Constitution relates only to duties being performed by the Deputy Speaker when the office of the Speaker is vacant and if the office of the Deputy Speaker is also vacant, then by such Member of the Assembly as the Governor may appoint for the purpose.

He referred to Article 179 of the Constitution to indicate when there is a vacancy in the office of the Speaker or Deputy Speaker. He also relied on the second Proviso to Article 179 of the Constitution which provides that even in case of dissolution of Assembly, the Speaker shall not vacate office until immediately before the first meeting of the Assembly after the dissolution.

He then submitted that without prejudice to the aforesaid, the Supreme Court in *The Election Commission of India versus Dr. Subramaniam Swamy and others* reported in 1996 (4) SCC 104 had laid down the doctrine of necessity when the situation so warranted.

He also referred to the judgement of the Supreme Court in "*Kihoto Hollohan's*" case with special reference to Paragraphs 112 - 119, wherein the Honourable Supreme Court has rejected the arguments of bias of the Speaker on grounds of the Speaker belonging to a particular political party.

34. I have considered the rival contentions and perused the records. Admittedly the Tenth Schedule confers power for decision on the question as to the disqualification on the grounds of defection exclusively to the Speaker of the House, whose decision is to be final.

It is also seen from Paragraph 6 of the Tenth Schedule that only in case where the question is to be decided as to whether the Speaker of the House himself has become subject to disqualification, then the question shall be referred for the decision of such member to the House as the House may elect in this behalf.

35. I am in agreement with Shri Nadkarni that there is no provision or scope to empower any other person to be appointed in determining the issue as to whether a member has become subject to disqualification on ground of defection under Article 191 (2) of the Constitution read with the Tenth Schedule, except as indicated above.

36. Article 180 of the Constitution refers only to a situation when the office of the Speaker/Deputy Speaker is vacant. The Constitution does not contemplate appointment of another person as Speaker/Deputy Speaker or any other person unless there is a vacancy in either of the offices. Even mere absence of the incumbent is not sufficient or a ground for appointment to any of these posts.

The vacancy, as rightly pointed out, can be only in cases/situations contemplated in Article 179 of the Constitution. In *the Election Commission of India and another versus Dr. Subramaniam Swamy and another* reported in 1996 (4) SCC 104, the Honourable Supreme Court when considering such a situation has held as under:

"16. We must have a clear conception of the doctrine. It is well settled that the law permits certain things to be done as a matter of necessity which it would otherwise not countenance on the touchstone of judicial propriety. Stated differently the doctrine of necessity makes it imperative for the authority to decide and considerations of judicial propriety must yield. **It is often invoked in cases of bias where there is no other authority or judge to decide the issue. If the doctrine of necessity is not allowed full play in certain unavoidable situations it would impede the course of justice itself and the defaulting party would benefit therefrom.** Take the case of a certain taxing statute which taxes certain perquisites allowed to Judges. If the validity of such a provision is challenged who but the members of the judiciary must decide it. If all the Judges are disqualified on the plea that striking down of such a legislation would benefit them, a stalemate situation may develop. In such cases the doctrine of necessity comes into play. If the choice is between allowing a biased person to act or to stifle the action altogether the choice must fall in favour of the former as it is the only way to promote decision-making. In the present case also if the two Election Commissioners are able to reach a unanimous decision there is no need for the Chief Election Commissioner to participate, if not the doctrine of necessity may have to be invoked."

37. On a prima facie perusal of the Petition, annexures and submissions made on behalf of the Petitioner including the application renewing the request for ad interim ex parte relief at 1.30 p.m. on 28th July, 1998, I had granted a limited ad interim relief. The message of the Governor was in fact received in the office of the Speaker at 2.00 p.m. on 28th July, 1998.

The contention of Dr. Coelho Pereira that the order was based upon receipt of the Governor's message is not correct. In my order dated 28th July, 1998 I had clarified the issue regarding the discrepancy in the date in the Public Notice as being error. The contention of Shri Nadkarni that this is a manipulation of or on behalf of the Respondents is rejected.

38. At any rate it was open for the Respondents to appear and oppose confirmation of the ad interim relief. The Respondents preferred Writ Petition before the High Court, which has quashed the ad interim relief for reasons contained in the judgement, whilst upholding the power of the Speaker under the Tenth Schedule, to grant interim including ad interim relief and has corrected ~~and~~ for reasons stated hereinabove.

39. I have perused the Judgement of the Honourable Supreme Court referred to by Dr. J. E. Coelho Pereira.

In *Mineral Development Ltd. v. State of Bihar & anr.* reported in AIR 1960 SC 468, in paragraph 10, the Constitution Bench of the Supreme Court, relying on its earlier decision in *Nageswara Rao v. State of Andhra Pradesh* (AIR 1958 SC 376), reiterated the principles governing bias vis-a-vis judicial tribunals.

In that case the concerned Minister who heard the matter had not only a personal interest in the matter, but the Honourable Supreme Court in Paragraph 11 at page 473, has categorically recorded a finding that the Revenue Minister had personal bias within the meaning of the decisions and he should not have taken part either in initiating the enquiry or in cancelling the licence.

40. In so far as the second citation viz. *Ranjit Thakur v. Union of India & ors.* reported in AIR 1987 SC 2386, Dr. Coelho Pereira placed heavy reliance on paragraph 7 thereof wherein the Honourable Supreme Court has held as under:

"7. As to the tests of likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look for at his own mind and ask himself, however, honestly, am I biased?" but to look at the mind of the party before him"

41. In fact, without any argument, to allay any fear or any suspicion of bias, I had studied the issue to enable myself to entrust the petitions to some other authority for decision. However given the Constitutional provisions which do not provide for any other person to be the Adjudicating Authority, except as detailed above, the doctrine of necessity will have to be invoked to prevent not only a stalemate but also to prevent stifling of the action altogether.

I feel that the apprehension of the Respondents of bias on this count is totally untenable and unfounded.

42. The allegation of bias on ground of animus as sought to be made on perusing the records and also the pleadings except for mere statement that there is an animus between Respondent No. 1 and the Adjudicating Authority, nothing has been set out nor any material particulars have been disclosed to found such a claim. In fact, I may state that there is actually no animus between Respondent No. 1 and myself.

43. It may be relevant to state that even during the Assembly session which was prorogued on the close of business on 29th July, 1998, no motion for Removal of the present Adjudicating Authority been moved by any of the Respondents and more particularly by Respondent No. 1.

44. The contention therefore that there is an animus is purely an afterthought. The present motion submitted has no significance nor sanctity nor any legal standing since the present motion, referred to in the application dated 4-8-1998 filed in the Petition, has not been moved when the House is in session and the same has been moved in an apparent bid to pre-empt the hearing of these petitions.

45. Even if a slight allegation of bias was made, I would prima facie be inclined not to take up the matter and recuse myself from hearing the petitions not because the allegations of bias are true but merely to dispel any doubt in the minds of any of the parties that the decision arrived at is purely on the basis on any bias.

However the Constitutional mandate casts a duty on the Speaker to decide these issues.

On the question of bias in the Speaker on account of the Speaker belonging to a political party, the Honourable Supreme Court in "**Kihoto Hollohan**" (Supra) at paragraphs 118 and 119 (of SCC) has held as under:

"118. It would, indeed, be unfair to the high traditions of that great office to say that the investiture in it of this jurisdiction would be vitiated for violation of a basic feature of democracy. It is inappropriate to express distrust in the high office of the Speaker, merely because some of the Speakers are alleged, or even found, to have discharged their functions not in keeping with the great traditions of the high office. The robes of the Speaker do change and elevate the man inside.

119. Accordingly, the contention that the vesting of adjudicatory functions in the Speakers/Chairmen would by itself vitiate the provisions on the ground of likelihood of political bias is unsound and is rejected. The Speakers/Chairmen hold a pivotal position in the scheme of Parliamentary democracy and are guardians of the rights and privileges of the House. They are expected to and do take far-reaching decisions in the functioning of Parliamentary democracy. Vestiture of power to adjudicate questions under the Tenth Schedule in such Constitutional functionaries should not be considered exceptionable."

46. In view of the above, the contention of bias of the Adjudicating Authority requires to be rejected. Even otherwise the doctrine of necessity would come into play.

47. The issue(f) is therefore held as not proved and therefore answered in the negative.

48. Having dealt with the above Issue, I now propose to deal with the Preliminary Objections raised by the Respondents in the above Petitions.

Regarding Issue (c):

Dr. J. E. Coelho Pereira, learned counsel, in support of his contention, took me through Rule 6 of the Disqualification Rules, 1986. He submitted that in accordance with Rule 6 (5) (a), the Petition is required to contain a concise statement of the material facts on which the Petitioner relies. It was his contention therefore that on this ground itself, that the Petition ought to be dismissed.

49. On the other hand, learned Advocate Shri A. N.S. Nadkarni urged before me that the Rules of procedure are designed to facilitate justice and not meant to trip or defeat valid claims. He contended that the argument on behalf of the Respondents is misconceived and preposterous.

50. As far as the submissions as to the petition not containing concise statements of material facts Shri Nadkarni has submitted that a perusal of Rule 5(a) merely refers to pleadings to be made and no separate mention needs to be made as to which are the material facts on which the Petitioner relies. According to Shri Nadkarni there is full compliance of Rule 6 of The Disqualification Rules, 1986. Shri Nadkarni further contended that in Judgement in the matter of *Ravi S. Naik v. Union of India* reported in AIR 1994 SC 1185, the Supreme Court had categorically held that in respect of The Disqualification Rules, 1986 the same could not override Constitutional mandate and any infringement and or breach of the rules, is not fatal. He submitted that the Petitions contain necessary and material particulars on which the petitioners rely, as required.

51. I have perused each of the Petitions. It is seen that the Petitioners have specifically pleaded factual contents/averments in each of the Petitions. Verifications have also been done indicating the paragraphs which are true to his knowledge and separating the legal submissions in each of the Petitions. The contention that the Petitions do not contain concise statement of material facts on which the Petitioners rely, is an unjustified objection and therefore this objection is overruled. I therefore hold that the Petitions do contain concise statements of material facts on which the Petitioners rely.

It may be necessary to advert to the judgement of the Honourable Supreme Court in the matter of *Ravi S. Naik* (supra) wherein at paragraph 18, the Honourable Supreme Court has held as under:—

"18. The Submission of Shri Sen is that the petitions that were filed by Khalap before the Speaker did not fulfil the requirements of clause (a) of sub-rule 5 of Rule 6 in as much as the said petitions did not contain a concise statement of the material facts on which the Petitioner (Khalap) was relying and further that the provisions of clause (b) of sub-rule (5) of rules 6 were also not complied with in as much as the petitions were not accompanied by copies of the documentary evidence on which the Petitioner was relying and the names and addresses of the persons and the list of such information as furnished by each such person. It was also submitted that the petitions were not verified in the manner laid down in the Code of Civil Procedure for the verification of pleadings and thus there was non-compliance of sub-rule (6) of Rule 6 and also in view of the said infirmities the petitions were liable to be dismissed in view of sub-rule (2) of Rule 7. We are unable to accept the said contention of Shri Sen. The Disqualification Rules have been framed to regulate the procedure that is to be followed by the Speaker for exercising

the power conferred on him under sub-paragraph (1) of paragraph (6) of the Tenth Schedule to the Constitution. The Disqualification Rules are, therefore, procedural in nature and any violation of the same, would amount to an irregularity in procedure which is immune from judicial scrutiny in view of sub-paragraph (2) of paragraph 6 as construed by this Court in Kihoto Hollohon's case 1992 (AIR SCW 3497) (supra). Moreover the field of judicial review....."

In view of the pronouncement of the Honourable Supreme Court, I, hold I therefor hold issue (c) is not proved and is therefore answered in the negative.

52. Regarding issues (b) & (d):

Except having taken these objections in the pleadings, learned Sr. Advocate Dr. Coelho Pereira has not made any submissions in this regard. I am of the opinion that Respondents are not serious about these Issues and have not proved the same.

In view of the above, Issues (b) and (d) are held as not proved and answered in the negative.

53. Regarding Issue (e):

Learned Senior Advocate Dr. Coelho Pereira also did not make any submissions on this Issue.

This Issue has therefore not been proved by the Respondents.

In view of the above, Issue (e) is held as not proved and answered in the negative.

In my View of the matter, the Petitions comply with all the requirements of Rule 6 and therefore the preliminary objections are therefore rejected. In the aforesaid circumstances, preliminary issues (b), (c), (d) and (e) are held as not proved and answered in the negative.

55. Regarding Issue (a): It is the case of the Petitioner that Respondents Shri Chandrakant Chodankar, Shri Jagdish Acharya, Shri Deo Mandrekar, Smt. Fatima D'Sa and Dr. Carmo Pedgado were expelled from primary membership of the Indian National Congress on 24th July, 1998. As a result of this expulsion they are "unattached" and for all purposes continue to belong to the "Original Political Party" namely the Indian National Congress and therefore joining any other party after this expulsion brings such a member within the provisions of Paragraph 2(1) (a) of the Tenth Schedule whereby a person has voluntarily given up membership of a political party. For this purpose Shri Nadkarni relied upon the judgement of the Supreme Court in *G. Vishwanathan v. The Hon'ble Speaker, Tamil Nadu Legislative Assembly, Madras & anr.* reported in (1996) 2 SCC 353. Shri Nadkarni then contended that the remaining five Members of the Indian National Congress namely Dr. Wilfred D' Souza, Shri Dayanand Narvekar, Shri Subash Shirodkar, Shri Pandurang Bhatale and Shri Pandu Vassu Naik do not constitute 1/3rd of the total number of the Members of the Indian National Congress Legislature Party and therefore they attracted Disqualification on grounds of Defection. Shri Nadkarni sought to make a distinction between a **Member of the "Original Political Party" and Members of the Indian National Congress Legislature Party.** He submitted that whilst the Respondents Nos. 6 to 10 in Disqualification Petition No. 2/98, who had been expelled continued to be members of the Indian National Congress Party on Account of their expulsion, they could not be considered as Members of the Indian National Congress Legislature Party. He further stated that it is sought to be made out for the first time in the reply that the expulsion is allegedly bad and having no force of law when the Respondents themselves in the Writ Petition No. 296/98 and Writ Petition No. 297/98 have admitted the expulsion without challenge to the same and without raising any contention that the same was bad and/or illegal. That the Respondents cannot now be permitted to take a contrary stand.

Shri Nadkarni also further stated that the intimation dated 27-7-1998 addressed to the Speaker of the Legislative Assembly from its reading clearly indicates that the Respondents have decided to form, a group in

the Congress (I) Legislature Party Known as "Goa Rajiv Congress Party" with Respondent No. 1 as its leader, which apart from the fact prima facie does not satisfy the requirement of Paragraph 3 of the Tenth Schedule, which has not been pleaded, is itself defective for reasons that:

- a) firstly the reference is to the Congress (I) Legislature Party when in fact there is no such recognised party.
- b) Secondly, the signatories thereto claimed to have formed a group in a Legislature party.
- c) Thirdly, mere formation of a group is not sufficient- there should also be a group representing a faction which has arisen as a result of a split in the Original Political Party and such group consists of not less than one-third of the Members of the Legislature Party, to avail of the benefits of Paragraph 3 of the Tenth Schedule.

56. Shri Nadkarni further urged that in fact there is no split in the Original Political Party namely the Indian National Congress, even by documents sought to be adduced: that the document Exb, R-9 to the reply is itself a concocted, fabricated and a false document since the same bears no date as to when it was signed nor is it purporting to be an extract of a Resolution nor was the same annexed with the intimation to the Governor or the communication dated 27-07-98 addressed to the Speaker, and has been prepared now to some how or the other, fill in the fatal lacunae, to avoid disqualification. Therefore, this document cannot be relied upon nor permitted to be looked into since the same is prima facie false and a got-up document. He further contended that the Honourable Supreme Court in the case of *Ravi Naik versus the Union of India* reported in AIR 1994 SC 1558 unequivocally held that two conditions are necessary for fulfilling requirements of paragraph 3 of the Tenth Schedule viz.

- a) That a member of the House should make a claim that he and any other members of his Legislature party constitute a group which has arisen as a result of a split in a original political Party; and
- b) That such group consists of not less than 1/3rd of the members of such legislature party.

58. According to Shri Nadkarni the above two conditions are to be read conjunctively and the mandate of satisfying both the conditions is clear. When questioned as to what meaning is to be given to the "split in the Original Political Party", he contended that, that split must be vertical split through out the entire Organisation/Political Party and not only of members of the Legislative party and that there being no such split in the Original Political Party though there may be according to him taking the worst situation, 1/3rd of the Members since on account of their expulsion, five of the members of the Indian National Congress could not be members of the Indian National Congress Legislature Party, the above two requirements are conjunctive and this mandate has not been fulfilled and therefore the Respondents attracted Disqualification under Paragraph 2 of the Tenth Schedule.

58. Learned Sr. Advocate Dr. Coelho Pereira on the other hand only submitted that the Judgement in *G. Vishwanathan's* case helps the Respondents. He however did not elaborate or state how the same helped the Respondents. He then contended that he would confine to proving that there was a split in the Indian National Congress as required in para 3 of the Tenth Schedule.

59. In *G. Vishwanathan's* case reported in (1996) 2 SCC 353, the Honourable Supreme Court has clearly held as follows:

"11. It appears that since the explanation to para 2 (1) of the tenth Schedule provides that an elected member of a House shall be deemed to belong to the political party, if any, by which he was

set up as a candidate for election as such member, such person so set up as a candidate and elected as a member, shall continue to belong to that party. Even if such a member is thrown out or expelled from the party, for the purposes of the Tenth Schedule he will not cease to be a member of the political party that had set him up as a candidate for the election. He will continue to belong to that political party even if he is treated as 'unattached'. The further question is when does a person "voluntarily give up" his membership of such political party, as provided in Para 2 (1) (a)? The act of voluntarily giving up the membership of the political party may be either express or implied. When a person who has been thrown out or expelled from the party which set him up as a candidate and got elected, joins another (new) party, it will certainly amount to his voluntarily giving up the membership of the political party which had set him up as a candidate for election as such member.

12. We are of the view that labelling of a member as 'unattached' finds no place nor has any recognition in the Tenth Schedule. It appears to us that the classification of the members in the Tenth Schedule proceeds only on the manner of the entry into the House, (1) one who has been elected on his being set up by a political party as a candidate for election as such member; (2) one who has been elected as a member otherwise than as a candidate set up by any political party usually referred to as an 'independent' candidate in an election; and (3) one who has been nominated. The categories mentioned are exhaustive. In our view it is impermissible to invent a new category or clause other than the one envisaged or provided in the Tenth Schedule of the Constitution. **If a person belonging to a political party that had set him up as a candidate, gets elected to the House and thereafter joins another political party for whatever reasons, either because of his expulsion from the party or otherwise, he voluntarily gives up his membership of his political party and incurs the disqualification.** Being treated as 'unattached' is a matter of mere convenience outside the Tenth Schedule and does not alter the fact to be assumed under the explanation to Para 2 (1). Such an arrangement and labelling has no legal bearing so far as the Tenth Schedule is concerned. **If the contention urged on behalf of the appellant is accepted it will defeat the very purpose for which the Tenth Schedule came to be introduced and would fail to suppress the mischief, namely, breach of faith of the electorate. We are, therefore, of the opinion that deeming fiction must be given full effect for otherwise the expelled member would escape the rigour of the law which was intended to curb the evil of defections which has polluted our democratic polity.**

13. Mr. Shanti Bhushan laid stress on para 1(b) of the Tenth Schedule and contended that the legislative party in relation to a member of a House belonging to any political party means the group of all the members of that House for the time being belonging to that political party and so understood, that appellants who were thrown out or expelled from the party, did not belong to that political party nor will they be bound by any whip given up by that party and so, they are unattached members who did not belong to any political party, and in such a situation the deeming provision in sub-para (a) of the explanations to para 2 (1) will not apply. We are afraid that it is nothing but begging the question. Para 1 (b) cannot be read in isolation. It should be read along with paras 2, 3 & 4. Para 1 (b) in referring to the legislature party in relation to a member of a House belonging to any Political Party refers to the provisions of paras 2, 3 and 4, as the case may be, to mean the group consisting of that House for the time being belonging to that Political Party in accordance with the said provisions, namely, paras 2, 3 and 4, as the case may be. Para 2 (1) read with the explanation clearly points out that an elected member shall continue to belong to that Political Party by which he was

set up as a candidate for election as such member. This is notwithstanding that he was thrown out or expelled from that Party. That is the matter between the member and his party and has nothing to do so far as deeming clause in the Tenth Schedule is concerned. The action of a Political Party qua its member has no significance and cannot impinge on the fiction of law under the tenth Schedule. We reject the plea solely based on Clause 1 (b) of the Tenth Schedule.

14. Our attention was drawn to the decision of this court in *Ravi S. Naik v. Union of India*. In the said decision, Para 2 (1) (a) of the Tenth Schedule of the Constitution was construed and it was observed at p. 649 thus: (SCC para 11)

"The said paragraph provides for disqualification of a member of a House belonging to a Political Party 'if he has voluntarily given up his membership of such Political Party'. The words 'voluntarily given up his membership' are not synonymous with 'resignation', and have a wider connotation. A person may voluntarily give up his membership of a Political Party even though he has not tendered his resignation from the membership of that Party. Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the Political Party to which he belongs."

If he of his own volition joins another Political Party as the appellants did in the present case, he must be taken to have acquired the membership of another Political Party by abandoning the Political Party to which he belonged or must be deemed to have belonged under the explanations to para 2(1) of the Tenth Schedule. Of course, courts would insist on evidence which is positive, reliable and unequivocal."

60. As can be seen from the above discussion, to attract disqualification on the ground of defection for voluntarily giving up his membership of a political party, it is necessary for the Petitioners to establish:—

- a) That the Respondents were members of a political party;
- b) That Respondents have from their own conduct or otherwise on evidence, voluntarily given up the membership of the political party as contained in para 2 of the tenth Schedule.

61. On perusing the pleadings and documents and specially the Order of expulsion of five members viz. Respondents 6 to 10 from the primary membership of the Indian National Congress, whereby they ceased to be members of the Indian National Congress Legislature Party, but continued to be members of the Indian National Congress under the Tenth Schedule, the letter dated 27-7-1998 (Exb. A to both the Petitions) claiming that they have formed a new party known as "GOA RAJIV CONGRESS PARTY" reveals in no uncertain terms that Respondent Nos. 6 to 10 have voluntarily given up membership of their original political party, attracting disqualification under para 2 (1) (a) of the Tenth Schedule of the Constitution.

62. The learned Advocate Dr. Coelho Pereira submits that the expulsion is bad since there was no Show-Cause Notice given for the same. He contends that the expelled members had indeed defended the demands of the Treasury benches on 24-7-1998 and thus the expulsion should not be looked into. He has attacked the expulsion as being bogus and fabricated.

63. On the other hand, Shri Nadkarni has submitted that the Order of expulsion, is still in force on all counts. The same is not challenged by the Respondents. He further submits that the expulsion has been admitted in the Writ Petitions, copies of which are on record here, filed by the Respondents themselves. He contends that the Speaker cannot sit in appeal/Judgement over the validity or otherwise of the expulsions.

64. Considering the aforesaid rival submissions, it can be seen that an order of expulsion dated 24-7-1998 expelling five of the members of the Indian National Congress viz. Respondent Nos. 6 to 10 in Disqualification Petition No. 2/98 is on record. The said Order of expulsion mentions that the expulsion is for the reason that on an inquiry, it had been revealed that the activities indulged in by the various members of the parties are even prejudicial to the interests of Goa and Goans at large and that they are indulging in antiparty activities including attempts to embarrass the Government and tarnish the image of the Indian National Congress, thereby acting in a calculated way, to lower the prestige of the party.

The said five members in their reply set out their case with respect to the Order of expulsion dated 24-7-1998 intimated on 25-7-1998. They have averred that the case of the applicants that his respondents were expelled from the Indian National Congress Party is false, malafide and fabricated. In support of the same, they have averred that such members had at no point of time been issued with any shown-cause notice before expulsion for any anti-party activities or on any of the allegations made against them contained in the purported letter. They have also pleaded that at no point of time, they were involved in any anti-party activities as alleged in the letter. They have also pleaded that they never made any demands to embarrass the Government or tarnish the party's image and that on the sitting of the House on 24-7-1998, they had defended the demands in the House. They have also pleaded that under the provision of the Indian National Congress Party, even suspension of a member contemplates that a Show-cause notice should be issued to the concerned members.

65. The fact remains that on 24-7-1998, there was factually an expulsion of these five members. It has not been brought to my attention that they have initiated any legal proceedings challenging this Order of expulsion. It is after I received the intimation as to their expulsion on 24-7-1998, that I have been informed on 27-7-1998 by 10 members claiming that it was decided to form a separate group in the Congress (I) Legislature Party under the name of GOA RAJIV CONGRESS PARTY under the leadership of Dr. Wilfred D'Souza MLA, Saligao. This is signed by all the 10 members and therefore includes also the expelled members. So long as no judicial authority has pronounced regarding the legality of the Orders of expulsion, I have to proceed on the footing of the five members having been expelled.

66. It is significant that while I had received intimation as to the expulsion on 25-7-1998, the ten members have, by letter dated 27-7-1998, have intimated about the meeting held on 24-7-1998 at the residence of the Dy. Chief Minister. Considering the way that both the parties have been hurriedly acting in their day-to-day in their unfortunate inter-se disputes, it appears to be, that if there was really a decision on 24-7-1998, Respondents would have promptly intimated me of the same forthwith instead of waiting till 27-7-1998. On probabilities, therefore, I am of the view that they have pleaded that the formation of the separate group on 24-7-1998, only to counter the case of Petitioner of expulsion and the consequential disqualification that may occur. The Order of expulsion is still holding the field and has not been struck down by any Court. On the date of defection, if the expelled members are not taken into account in the total strength of the Legislature party, the other defectors being five out of 20, have clearly incurred the disqualification. This reason applies only to the said five members.

67. I have therefore come to the conclusion that the Respondent Nos. 6 to 10 in Disqualification Petition No 2/98 have voluntarily given up their membership of the political party and are therefore Disqualified from being Members of the House.

68. In so far as Respondents Nos. 1 to 5 in both the petitions are concerned, it is the same documents (Exb. A) which has been jointly signed by them, claiming to have formed another party viz. "GOA RAJIV CONGRESS PARTY" also discloses in no uncertain terms that Respondents 1 to 5 have voluntarily given up their membership of their original political party viz. The Indian National Congress.

Even otherwise keeping the expulsion aside, from the very conduct of the Respondents and more specifically the letter dated 27-7-98 addressed by the Respondents (Exhibit A), it is clear that Respondents have voluntarily given up membership of their original political party, viz. The Indian National Congress by having formed another political party, viz. "GOA RAJIV CONGRESS PARTY"

Issue (a) is therefore held as proved and answered in the affirmative.

69. As far as issue (g) is concerned, it was incumbent on the Respondents to prove that there was a **split in the Original Political Party** and that the Respondents and other members of the Legislative Party constituted the group consisting of not less than 1/3rd of the Members of such Legislature party.

Para 3 of the Tenth Schedule of the Constitution inter alia provides that a member of the House shall not be disqualified on grounds of defection for having voluntarily given up his membership of his original political party where such member of a House makes a claim that he and other members of the legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third the members of such legislature party.

70. The intention of the legislature in providing for a split in the original political party in para 3 of the Tenth Schedule and defining it in the definition clause with clear distinction as to the definition of "legislature party" can leave no room for debate that the mandate to a person claiming benefit of paragraph 3 of the Tenth Schedule necessarily demands pleading and establishing by documents or otherwise, the two mandatory requirements viz.:

- (i) That there should be a group representing a faction which has arisen as a result of a split in the original political party;
- (ii) That in such group there should be not less than one-third of the members of such legislature party.

71. Keeping aside *G. Vishwanathan's* judgement (supra) which interprets the scope of para 2(1) (a) of the Tenth Schedule when a member is expelled from his original political party, yet the burden to prove the ingredients in paragraph 3 of the Tenth Schedule is on the Respondents who desire to avail of such claim or benefit.

72. That the two conditions above referred are mandatory has been eloquently spelt out by the Honourable Supreme Court in paragraph 38 of the Judgement of *Ravi S. Naik v/s Union of India* reported in AIR 1994 SC 1558 which as under:-

"38. As noticed earlier paragraph 2 of the tenth Schedule provides for disqualification on the ground of defection if the conditions laid down therein are fulfilled and paragraph 3 of the said Schedule avoid such disqualifications in case of split. Para 3 proceeds on the assumption that but for the applicability of the said provision the disqualification under para 2 would be attracted. The burden to prove the requirements of para 2 is on the person who claims that the member has incurred the disqualification and the burden to prove the requirements of para 3 is on the member who claims that there has been a split in his original political party and by virtue of said split the disqualification under para 2 is not attracted. In the present case, Naik has not disputed that he has given up this membership of his original political party but he has claimed that there has been a split in the said party. The burden therefore lay on Naik to prove the alleged split satisfies the requirement of para 3. The said requirements are:

- (i) The member of a House should make a claim that he and other members of his legislature party constitute the group representing a faction which has arisen as a result of split in the original party, and
- (ii) Such group consists of not less than one-third of the members of such legislature party."

It may be relevant to quote what a Member of this House, elected to decide such question under para 6 of the Tenth Schedule, Dr. Kashinath G. Jhalmi, has stated in his decision dated 14-12-1990 in the matter of petition filed by Shri Luizinho Faleiro, MLA, against Dr. Luis Proto Barbosa, Speaker of the House (published in the Official Gazette of Goa Series II No. 37 Extraordinary No. 2 dated 15-12-1998) viz.

“27. The anti-defection law disqualifies a legislator who has voluntarily given up the membership of his political party. Mere numbers do not remove this disqualification. One third of the members are no less liable if they abandon membership simultaneously. They are exempted only if they quit the Legislature party, **“as a result of a split” in the party outside. Proof of this wider split is essential to the application of the exemption clause.** The Speaker of the Kerala Assembly Mr. Varkala Radhakrishna rightly pointed out on November, 8 that the practice of condoning defection if the defection group has one third strength of the legislature party is against democracy.”

It may be pertinent to state here that this Disqualification Order was unsuccessfully challenged in the High Court and also in the Honourable Supreme Court and the Disqualification Order was upheld even by the Honourable Supreme Court in the Judgement of *Dr. Luis Proto Barbosa v. Union of India & ors.* reported in AIR 1992 SC 1812.

73. Dr. J. E. Coelho Pereira took me to paragraph 3 of the Tenth Schedule and contended that when there is one - third of the Members of the Legislature Party, it would be sufficient; that the split took place on 24th July, 1998 as per the resolution annexed to the reply (Exb. R-9). That the concept of vertical split is not necessary but if the Members of the Legislature Party constituted one-third of the total Members of the Legislature, there would be sufficient compliance of the provisions of Paragraph 3 of the Tenth Schedule.

74. Prima facie it appears that the contention of Shri Nadkarni that there should be a vertical split throughout the entire party may not be tenable. However, on the closer look at the Tenth Schedule, it is to be seen that the framers of the Constitution in their Legislative wisdom have clearly sought to make distinction in the definition clause, with reference to the word **“Legislature Party”** and **“Original Political Party”**. Paragraph 3 of the Tenth Schedule uses both these words and requires the two mandates namely a split in the Original Political Party and one-third of the Members of the Legislature party being part of the group which represents the faction which has arisen as a result of the split in the Original Political Party. It may be argued that in such an event a vertical split as contemplated may be difficult if not prohibitive. As can be seen above the intention of inserting the Tenth Schedule in the Constitution is not to allow Defection but to curb/prevent Defection. Exception has been made as contained in paragraphs 3 and 4 of the Tenth Schedule when disqualification on the ground of Defections is not to apply. The Tenth Schedule is not a *‘cartablanche’* for defections. If a person chooses to be a Member of a National Party, then he ought to know the consequences of his entry into such a party. For example in certain cases, certain members may be against a certain policy in their personal capacities. But when they join a party, they are bound by the directives or policies formulated by such party and are bound to vote and/or act in consonance with the policies of the political party. The right to dissent is indeed a valuable right to a person. However, this can always be done in the inner party forum and if a party despite hearing the dissent, by majority takes decision in a certain manner, then the members are bound to follow such decision. If in the name of democracy, the right of public dissent is used to make a democratic Government impossible, or feeble or ineffective, then the exercise of the right is an attack on democracy which democracy must defeat for its survival as an effective instrument of self Government.

76. Defection in a National Party naturally will require a split at all levels, and these levels may be more, which may not be the situation in case of a Regional Party. In the present case the Respondents have not

set out any split in the Original Political Party as required. In fact in Paragraph 13 of their reply, their contention is an under:

“13

That apart it is stated and submitted that in fact the respondents and other members of the Respondents group namely the members of the Legislative Assembly afore referred have taken resolution and in pursuance to that resolution split from the original Indian National Congress Party. The said resolution was taken on the 24th July, 1998 at a Meeting of the Respondents and other 5 Members of the Respondent group namely, Shri Chandrakant Chodankar, Dr. Carmo Pegado, Smt. Fatima D’Sa, Shri Jagdish Acharya and Shri Deo Mandrekar who met at the residence of the first respondent at Saligao after the Assembly session held on 24-7-1998 was over.

Hereto annexed and marked as Exhibit R-9 is a true copy of the Resolution”

Similar reply has been filed to the other Petition also and is therefore not being quoted to burden this Judgement any further.

76. This indicates that there is no other person of the Executive Members not even ordinary Members at block level, office bearers and others who constitute part of this group. The Respondents have annexed to their reply “Rules of the Indian National Congress”. On a perusal of the same, it shows that in the Indian National Congress, there are various type of membership and also the organisational set-up of the Indian National Congress is of the following hierarchical set-up viz.

- (i) Primary Committee;
- (ii) Sub-ordinate Congress Committee/Block Committee;
- (iii) District Congress Committee;
- (iv) Pradesh Congress Committee;
- (v) All Indian Congress Committee.

77. There is no averment by any of the Respondents that there is any split in these levels in the Indian National Congress. In fact, paragraph 13 of the reply reproduced above, indicates that besides the Members of the Legislative Assembly, no other person attended the meeting held on 24-7-1998 held at the residence of Respondent No. 1. There is no proof of split in the party outside, nor of wider split. Neither does the document Exb. R-9 indicate the same. In Ravi Naik’s case above referred, the Honourable Supreme Court has pointed out that the split must be a one-time split. The document relied upon by Respondents purporting to be a resolution cannot be accepted to have been in existence as on 24-7-1998 for the following reasons:

- a) The same was never forwarded to the office of the Speaker with the communication dated 27-07-1998, nor is it the case of the Respondents that a copy of the resolution was forwarded to any other authority;
- b) The resolution while purporting to be that of 24-07-1998, appears to me merely a declaration. It bears no date.

78. In so far as the 10 members are concerned, I will have to advert to the requirements of para 3 of the Tenth Schedule. The Marginal Note of this paragraph states, that the disqualification on the ground of defection, not to apply in the cases of split. The sine qua non to escape the consequences of disqualification, is the existence of a split. This is the position reiterated by the Honourable Supreme Court in the matter of Ravi S. Naik especially at paragraph 38 at page 1573-74 (AIR). In the absence of a split in the original political party, even if the number of defectors consists of a group of not less than one-third members, the requirement of para 3 of the Tenth Schedule is not satisfied. The mischief sought to

be suppressed by the Tenth Schedule is the evil of political defection as the lure of office had been playing dominant part in such defections which defeats public interest.

79. The intimation addressed to me dated 27-7-1998, does not mention any split. But on the other hand, it only mentions that it was decided to form a separate group in the Congress (I) Legislature Party, the disqualification is clearly attracted. Forming a separate group in the Congress (I) Legislature Party, does not ipso facto constitute a split in the party. On the other hand, constituting a separate group must represent a faction which has arisen as a result of the split and the said faction cannot at all form a group in the very legislature party which had split.

80. No beneficial interpretation can be given to such Legislation. If the party make out a case within the four confines of the provisions of the law, he is entitled to a relief. In the present case it was incumbent on the Respondents to prove strictly the following:

- a) That they and other members of the Legislature party constitute a group which has arisen as a result of a split in the original political party;
- b) Such group consists of not less than one-third of the members of such legislature party.

81. The Respondents have failed to discharge their burden. It is sought to be contended that this will make a situation impossible. The submission of Dr. Coelho Pereira with respect does not find any merit since as indicated above Anti-Defection law and more specifically the Tenth Schedule has not been enacted to encourage Defection but to prohibit Defection. There is no averment not even proof of a split in the Original Political Party. The documents produced by the Respondents and sought to be relied upon which when read with the pleadings clearly indicate that there has not been any split either of the Executive Committee, State Level, Block level etc. I must add here that one-third split in the organisation/ original political party is not required, but split should be at all rungs. The requirement of not less than one-third members is only with reference to members of the House.

It requires to be stressed that neither in the intimation dated 27-7-1998 nor in the purported Resolution (Exb. R-9), nor in the pleadings, the Respondents have set out or claimed of any split beyond the ten Respondents, nor is there any proof in this regard. The averments in the reply show positively that the entire group comprised of only these ten members and no one else.

If it was the intention of the Parliament that mere split in the Legislature Party with a minimum of one-third of its strength was sufficient to avoid disqualification, there would have been no need to specifically provide that the faction should have arisen as a result of a split in the original political party. So also, if "Legislature Party" and "political party" referred to in the Tenth Schedule were to be understood to have the same meaning, there was no need to define the two expressions separately in the definition clause. The intention of the Parliament is clear that both conditions, as reiterated by the Honourable Supreme Court in Ravi Naik's case, are to be satisfied to avoid disqualification under paragraph 3 of the Tenth Schedule.

Taking all the above factors into consideration, I have no hesitation to come to the conclusion that the Respondents have failed to discharge the burden to prove that there is a split in the Original Political Party to avail of the benefit of Paragraph 3 of the Tenth Schedule.

I therefore hold issue (g) as not proved and the same is therefore answered in the negative.

82. In the circumstances as aforesaid, it is clear that the Respondents herein having failed to discharge the burden cast on them vide para 3 of the Tenth Schedule, have failed to prove that the constitution of the one-third group was a result of the split in the original political party and as such, on account of this, all the ten respondents have become subject to disqualification under the Tenth Schedule.

83. Further, in so far as the expelled members are concerned viz. Respondent Nos. 6 to 10 in Disqualification Petition No. 2/98, they having joined another political party, have become subject to disqualification under the Tenth Schedule.

84. Lastly, the Respondents Nos. 1 to 5 in each of the Petitions, having defected from their original political party and their number being only five, which is less than one-third as required in terms of paragraph 3 of the Tenth Schedule, have become subject to disqualification.

85. Accordingly, both petitions are allowed and hence the following Order.

ORDER

I declare that the Respondents viz. Respondent Nos. 1 to 5 in Disqualification Petition No. 1/98 and Respondent Nos. 1 to 10 in Disqualification Petition No. 2/98 have become subject to disqualification with effect from 27-7-1998 and as such are disqualified with effect from 27-7-1998 for being members of the Legislative Assembly of Goa in terms of Article 191 (2) of the Constitution on account of their disqualification under the Tenth Schedule of the Constitution of India.

Dated this 14th day of August, 1998, at Panaji.

Shri Tomazinho Cardozo
Speaker
Legislative Assembly of Goa.

Assembly Hall,
Panaji - Goa.
Dated: 17th August, 1998.

P. N. RIVANKAR
Secretary to the Legislative Assembly
of the State of Goa.

Department of Law & Judiciary

Law (Establishment) Division

Notification

No. 5-1(1) 95-LD (6)

The Notification No. 5-1 (1) 95/LD (6) dated 23-7-1998 is hereby rescinded with immediate effect.

By order and in the name of the Governor of Goa.

N. B. Narvekar, Under Secretary (Law).

Panaji, 17th August, 1998.

ANNEXURE - IX

BEFORE THE HON'BLE SPEAKER
OF GOA LEGISLATIVE ASSEMBLY,
AT PORVORIM, GOA
Disqualification Petition No. 1/2007
Shri. Chandrakant Kavlekar

... Petitioner
Vs.
Smt. Victoria Fernandes

... Respondent
Date: 8th August, 2007

NOTICE

To
Smt. Victoria Fernandes,
Major, w/o. Romeo Fernandes,
Member of Legislative Assembly of Goa,
r/o. House No. 1310, Bairo Bondir,
St. Cruz, Ilhas, Goa.

Whereas petition for disqualification under Tenth Schedule of the Constitution of India has been instituted against you, AND WHEREAS an order has been made by the Hon'ble Speaker against you on 30th July 2007 as below-

"Petitioner has made out a prima facie case under paragraphs 2 (a) and 2(b) of the Tenth Schedule of the Constitution of India. Petitioner also has made out case for grant of ex-parte ad interim relief, more particularly, because the House is in Session and any notice to the respondent at this juncture, will defeat the very purpose of the ex-parte ad interim relief being claimed. 1986 Anti-Defection Rules provide for 7 days notice. Respondent is not entitled to function as Member of Goa Legislative Assembly or participate in the proceedings of the House or vote in the House. I order ad interim ex-parte relief in terms of prayer clause (b) to the petition. Respondent is restrained from functioning as Member of Goa Legislative Assembly and/or from participating in the proceedings in the House and/or from voting in the House. Secretary, Legislature, shall issue appropriate notice to respondent calling upon her as to why ex-parte ad interim relief granted should not be confirmed as also why she should not be disqualified under paragraphs 2(a) and 2(b) of the Tenth Schedule to the Constitution of India. Such notice shall be made returnable on 13-08-2007 at 11.00 a.m."

And whereas attempts to effect service on you by hand delivery or post or courier have failed and therefore this notice by publication in newspaper.

Therefore, you are hereby given this notice and summoned to appear before the Honourable Speaker in person or by a pleader duly instructed, on 13th day of August 2007 at 11.00 am in the chamber of the Honourable Speaker at Assembly Complex, Porvorim Goa, to answer the claim in the petition and also to show cause why order made by the Honourable Speaker on 30th July 2007 be confirmed or vacated or varied on the aforesaid day and also produce all the documents you intend to rely in support.

You are directed to collect copy of the petition and documents annexed thereto from the undersigned from the Office of the Goa Legislature Secretariat, Porvorim, Goa.

Take notice that in default of your appearance, petition and the question of interim relief granted shall be heard and determined in your absence.

By order of Hon'ble Speaker
Sd/-

(Uvaraj Naik)

Under Secretary, Legislature for Secretary,
Legislature

Further,

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