

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 217 OF 2016

SHRI VIKAS VISHWANATH PRABHU AND
8 ORS.,

... Petitioners

Versus

THE ASSISTANT REGISTRAR OF CO-OP.
SOCIETIES, PONDA ZONE AND ANR.,

... Respondents

Mr. Ashwin D. Bhobe, Advocate for the Petitioners.

Ms. Susan Linhares, Additional Government Advocate for
the Respondents.

CORAM:- C.V. BHADANG, J.

DATE:- 13th JUNE, 2016.

ORAL ORDER:

Heard the learned Counsel for the parties.

2. The petitioners, who are the Members of the Board of Directors/Managing Committee of Shri Gananath Sahakari Dudh Vyavasaik Saunstha Limited, Nirankal, Ponda, are challenging the order dated 08.02.2016 passed by the respondent no. 1, whereby in exercise of powers under section 61 of the Goa Co-operative Societies Act, 2001 (the Act, for short), it is declared that the petitioners have incurred

disqualification for the period of five years from the date of issue of the order, for being chosen as Directors and they are held ineligible to continue as Directors of the said Society.

3. The learned Counsel for the petitioners has pointed out the roznama of the proceedings before the respondent no. 1, according to which, on 29.05.2015 on the request of the Secretary of the Society, the matter was fixed on 22.06.2015 at 3:30 p.m. On that date, none of the office bearers of the said Society were present. A reply was filed alongwith the copy of the minutes of the general body and the audit report for the year 2013-14 and the respondent no. 1 had granted a final opportunity to the petitioners to appear and the matter was fixed on 10.07.2015. However, it appears that the Assistant Registrar of the Co-operative Societies, who was holding the office was transferred and the matter remained pending. On 22.01.2016, the matter was taken up by the successor behind the back of the petitioners. Thereafter the impugned order came to be passed on 08.02.2016. It is contented that after the matter was fixed on

10.07.2015, there were no dates assigned and no notice was issued when the matter was again taken up on 22.01.2016. It is contended that this has resulted into breach of principles of natural justice.

4. The learned Additional Government Advocate appearing for respondent nos. 1 and 2, on instructions, states that respondent no. 1 shall hear the petitioners afresh and shall pass appropriate orders in accordance with law. In view of this, the following order is passed:

O R D E R

(a) The petition is allowed.

(b) The impugned order dated 08.02.2016 is hereby set aside.

(c) The respondent no. 1 shall hear the petitioners or their representative/s and shall pass orders afresh, in accordance with law.

(d) The petitioners or their representative/s shall remain present before the respondent no. 1 on 04.07.2016 at 3:00 p.m.

(e) All the rival contentions of the petitioners are left open.

(f) The petition is disposed of in aforesaid terms, with no order as to costs.

C.V. BHADANG, J.

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