

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 487 OF 2016

VITHAL NAIK AND ANR., ... Petitioners
Versus
STATE OF GOA, THR. THE CHIEF
SECRETARY AND 4 ORS., ... Respondents

Shri Gaurang D. Panandiker, Advocate for the petitioners.
Shri A. Gomes Pereira, Addl. Govt. Advocate for the respondents
no.1 and 2.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 2nd May, 2016

P.C.

Heard Shri G. Panandiker, learned Counsel appearing for the petitioners and Shri A. Gomes Periera, learned Addl. Govt. Advocate for appearing for the respondents no. 1 and 2.

2. The above petition challenges the order passed by the learned Registrar dated 16.2.2016 where by the preliminary objections raised by the petitioner were rejected.

3. Learned Counsel appearing for the petitioners has submitted that as the petitioners having been appointed as a Directors in terms of Section 67A of the Co-operative Societies Act such order is amenable to an appeal in terms of Section 114 of the said Act. The learned Counsel further submits that as the appeal is provided against

such order the question of the Registrar re-examining the matter at the instance of the complaint lodged by some of the members of the society is not at all justified. The learned Counsel further points out that as the Registrar himself has appointed the petitioner as per the provision in terms of Section 67A of the said Act, the question of such Registrar considering the show cause notice based on the inquiry conducted by the Registrar is totally unjustified. The learned Counsel as such points out that the impugned order passed by the learned Registrar rejecting the preliminary objections be quashed and set aside. He further points out that the Registrar has no authority to exercise such power in terms of the Act.

4. We have considered the submissions of the learned Counsel and have also gone through the record.

5. It is not disputed that in terms of Section 67A of the Act a persons who are not a member of the concerned Society cannot be appointed as a Director. The ground on which the Registrar has issued the show cause notice is on the basis of the preliminary inquiry wherein the petitioners have also participated and the concerned officer prima facie came to the conclusion that it would be appropriate to issue a show cause notice as the facts were misrepresented by the petitioner in the original representation.

6. In such circumstances, we find that there is no case made out for

interference with the impugned order rejecting the preliminary objections at this stage. All the contentions of the petitioner are left open to be examined on its own merits whilst taking a decision on the show cause notice.

7. Hence subject to above, petition stands dismissed.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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