

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 564 OF 2016

Ms. Stadtmueller, Gabriele
German National,
R/o. H. No. 564, Alto Badem,
Assagao, Bardez, Goa.

... Petitioners

V e r s u s

1. Union of India,
Through its Secretary
Government of India, Ministry of Home Affairs,
New Delhi.

2. The Joint Secretary (Foreigner),
Ministry of Home Affairs, New Delhi.

3. Foreigners Regional Registration Office, Goa,
Police head Quarters, Panaji, Goa.

4. District Magistrate, North Goa,
Collectorate Building, Panaji, Goa.

... Respondents

Mr. Arun Bras De Sa and Mr. Fonseca Clayton Anthony, Advocates for the
Petitioner.

Mr. Pravin Faldessai, Addl. Government Advocate for the Respondent nos. 3 and 4.

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

Date : **30th June, 2016**

ORAL JUDGMENT (Per F. M. Reis, J.)

Heard Shri Arun Bras De Sa, learned Counsel appearing for the
Petitioners and Mr. Pravin Faldessai, learned Addl. Government Advocate
appearing for the Respondents.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Addl. Government Advocate appearing for the Respondents, waives service.

3. The above Petition takes exception to the Order dated 05.06.2014 passed by the Respondent no. 4 and the Revisional Order dated 26.02.2015 passed by the Respondent no. 1.

4. Shri Arun Bras De Sa, learned Counsel appearing for the Petitioners, has essentially raised a contention that the impugned Order dated 05.06.2014 was without jurisdiction as the Respondent no. 4 had no powers in terms of the Act to pass such Orders. Learned Counsel has taken us through the relevant provisions of law to point out that no powers have been conferred on the Additional District Magistrate to examine the application filed by the Petitioner. The learned Counsel as such pointed out that the impugned Orders deserve to be quashed and set aside.

5. On the other hand, Shri Faldessai, learned Addl. Government Advocate appearing for the Respondent nos. 3 and 4, submits that the revision preferred by the Petitioner challenging the Order passed by the Respondent no. 4 has been rejected by the Respondent no. 1. The learned Addl. Government Advocate however accepts that there is no material on record to establish that the Respondent no. 4 had such powers as such power was conferred only on State Government and it was incumbent upon the Petitioner to forward the application to State Government for further consideration. Learned Addl. Government Advocate

as such pointed out that in case the Petitioner files a fresh application, it shall be considered in accordance with law.

6. We have considered the submissions of the learned Counsel and we have also gone through the records. The records reveal that the Respondent no. 4 was not empowered to dispose of the application filed under Section 6(1) of the Citizenship Act, 1955. In the present case, as the procedure as contemplated by law has not been followed by the Respondent no. 4 whilst examining the application filed by the Petitioner, we find that the impugned Orders passed by the Respondent no. 4 cannot be sustained and deserves to be quashed and set aside. Consequently, the Order passed in the Revision Application also deserves to be set aside. However, the Petitioner, if so advised, are at liberty to file a fresh application which the concerned Respondent shall examine on its own merits in accordance with law.

7. In view of the above, I pass the following :

ORDER

(i) The impugned Order dated 05.06.2014 and Revisional Order dated 26.02.2015, are quashed and set aside.

(ii) The Petitioners, if so advised, are at liberty to file a fresh application which shall be examined by the concerned Respondent in accordance with law.

(iii) All the contentions of both the parties are left open.

8. At this stage, Shri Arun Bras De Sa, learned Counsel appearing for the Petitioners submits that the exercise of filing a fresh application shall be carried out within a period of two weeks from today and prays for interim protection until such application is disposed of. In the meanwhile, no coercive action shall be taken against the Petitioners in case such application is filed by the Petitioner.

9. Rule is made absolute in the above terms.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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