

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 992 OF 2017**

Mr. Miguel Vas @ Vaz

... Petitioner

Versus

Mr. Agnelo Lobo & 3 Ors.,

... Respondents

Mr. Gajendra Usgaonkar, Advocate for the Petitioner.

Coram: C. V. BHADANG, J.**Date : 22nd November 2017****ORAL ORDER:**

Heard learned Counsel for the petitioner.

2. By this Petition under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 09.03.2017 passed by the third Respondent-Administrator, thereby rejecting application dated 18.02.2016 filed by the Petitioner requesting not to give oath of loyalty to the Respondent no. 1.

3. The order passed by the Administrator is confirmed by the learned Administrative Tribunal by Judgment and Order dated 24.03.2017 in Comunidade Appeal no. 16 of 2016.

4. It is contended by the learned Counsel for the Petitioner that the Respondent no. 1 is being elected to the Comunidade since the year 2001. It is contended that the Respondent no. 1 has committed certain

irregularities during his tenure as the Attorney of the Comunidade. It is submitted that, therefore, the Administrator of Comunidade ought to have allowed the application and ought to have refused to administer oath of loyalty to the Respondent no. 1.

5. On hearing the learned Counsel for the Petitioner and on perusal of the record, I do not find that any case for interference is made out. Indisputably, the Respondent no. 1 is an elected Attorney of the Comunidade for the term 2016-2019. Article 74, 77 and Article 125(14) of the Code of Comunidade on which reliance is placed on behalf of the Petitioner read as under:-

Article 74

“The attorney, who has been found to be harmful to the interest of the Comunidade, shall be suspended by the administrator and dismissed by the Governor-General, upon the report or proposal of the administrator and hearing of the interested party.”

Article 77:

“The Comunidade may, at any time, by holding a meeting following the formalities prescribed in this Code, dismiss the elected attorney effective or substitute, when his action is proved to prejudice the interests of the Comunidade and elect another one in his place.”

Article 125(14):

“The administrator of Comunidades has powers to take oath of office of the staff members under him, as well as of members of the managing committee and other agents

of the Comunidades. He may however delegate these functions to the president of the committee, who had already taken the oath of office.”

It can thus be seen that under Article 74, the Attorney who has been found to be harmful to the interest of the Comunidad shall be suspended by the Administrator and dismissed by the Governor-General upon the report of the Administrator and hearing of the interested party. Article 77 pertains to a situation where the Comunidad after holding a meeting can dismiss the elected Attorney when his action is proved to be prejudicial to the interest of the Comunidad. Finally, Article 125(14) under which the application was purportedly filed by the Petitioner, says that the Administrator has powers to take oath of office of the staff members under him as well as the members of the Managing Committee and other agents of the Comunidad. He may delegate this function to the President of the Comunidad. It is thus difficult to understand as to how the application under Article 125(14) was maintainable so as to require the Administrator to refuse to administer the oath of loyalty. The Petitioner has been unable to show that under Article 125(14), the Administrator of Comunidad can refuse to administer oath of loyalty to an elected Attorney, against whom there are allegations of acting to the prejudice or against the interest of Comunidad.

6. I have carefully gone through the Order passed by the learned

Administrator of Comunidade and the Administrative Tribunal and I do not find that they suffer from any infirmity so as to require interference. It is however made clear that this shall not preclude the Petitioner from availing any other remedy, if available in law, against the Attorney. With this, the Petition is dismissed.

C. V. BHADANG, J

msr.