

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.841 OF 2016**

- 1 The National Educational Society,
Through its president Mr. Leroy A.
Menezes, S/o. Severino Menezes,
Age 37, service, Having Office at
Green Lawn Institute, New Vaddem,
Vasco Da Gama-Goa.
- 2 Mrs. Ludovina V.C. Rodrigues,
Headmistress, Green Lawn's
Institute, New Vaddem, Near Masjid,
Vasco da Gama, Goa. Petitioners

V/s

- 1 State Registrar,
Inspector General of Societies,
Having office at 7th Floor, “Shram
Shakti”, Patto, Panaji-Goa.
- 2 District Registrar
Inspector General of Societies South
2nd Floor Osia Complex, Margao
Salcete Goa.
- 3 Mr. Kamalludin Hamid Shaikh,
Son of H. Shaikh, 65 years of age,
Business, Resident of Near Noorani
Masjid, Vasco-Da-Gama, Goa. Respondents

Shri A.F. Naik, Advocate for the Petitioners.

Shri S.D. Lotlikar, Advocate General with Shri Deep Shirodkar,
Additional Government Advocate for the Respondents No.1 & 2.

Shri Rohit Bras De Sa, Advocate for the Respondent No.3.

**Coram:- ANOOP V. MOHTA &
C. V. BHADANG, JJ.**

Date:- 6th March, 2017

ORAL JUDGMENT :(Per ANOOP V. MOHTA, J.)

Rule. Heard forthwith with the consent of the learned Counsel appearing for the parties. The learned Counsel appearing for the respondents waive service.

2. We are disposing of this petition, after hearing the learned Counsel appearing for the parties and considering the averments made in the petition as the challenge is raised to order dated 18/08/2016 passed by the District Registrar and Inspector of General Societies (IGS) (Authority, for short) in Complain No.1/2015 lodged by respondent no.3 whereby the Authority has ordered :

“O R D E R

That the complainant did approach the I.G.S. (South), Margao, Salcete, Goa with clean hands and is entitled to equitable relief. The I.G.S. (South) ordered that the renewal application of **The National Education Society/School** presented by the complainant is taken on record and the renewal application of Mr. Leroy Menezes/Respondent No.2 is rejected due to procedural flaws and misrepresentation before the statutory authority. However the respondents are hereby directed to hand over the moveable and immoveable assets of the said society to the complainant within a period of one week upon receipt of this order.

With this observation the complaint stand disposed of, without any cost.”

To the petition, affidavit in reply has been filed by the contesting complainant/respondent no.3 dated 7/12/2016 and has placed on record constitution of The National Educational Society which is stated to be Minority Community Institution. Respondent no.3 further has placed on record through affidavit the necessary other events in support of his complaint and submitted that the impugned order need no interference as the application for renewal was rightly rejected. The petitioners in rejoinder affidavit dated 1/02/2017 reiterated their averments and resisted the defence so raised even by denying every aspect of claim of community institution/Society referring to the constitution. A challenge is also raised that the constitution is illegal, null and void as it is without complying with the mandatory requirement of Section 12 of the Societies Registration Act.

3. After considering the rival contentions as regards the documents of this Society we have noted that the rival contentions so specifically raised in their respective affidavits are not dealt with in the impugned order, except recording the factual background. The requirement of reasons referring to the issues so raised are missing in the present order. The rival submissions so raised and the documents so referred therefore require to be reconsidered by the Authority before passing final order as

the same has effect on the administration of the minority institution or otherwise which runs the schools. The uncertainties so created including the rights of the rival parties and contentions need to be dealt in depth so that appropriate Management or Committee will be incharge and run the institution within the framework. Therefore, taking overall view of the matter and as there are factual matrix required to be dealt with in depth and detail, based on the counter affidavit and affidavit, we are inclined to interfere with the impugned order with further direction to the Authority to pass a reasoned order, after considering the rival contentions and the documents placed on record, as early as, possible and preferably within 8 weeks.

4. This Court on 30/08/2016 had directed the parties to maintain status quo with regard to the handing over of the charge. That order has been in force till this date. The situation is that though the impugned order is against the petitioners and it is in favour of respondent no.3, in view of this order of status quo the petitioners group is in position to run/manage the institution/school. The same is confirmed by respondents no.1 & 2. Therefore, at this stage, to avoid further complications we are inclined to continue the status quo order so passed by this Court for 8 weeks. The Authority concerned to pass final order

uninfluenced by the order of status quo within the framework of record and the law. The adverse order, if any, against the petitioners, will not be given effect for two weeks from the date of communication of order passed by the Authority.

5. Therefore following order:

O R D E R

- (i) Impugned order dated 18/08/2016 is quashed and set aside.
- (ii) Complain no.1/2016 is restored to the record.
- (iii) The learned IGS to reconsider the same by giving opportunity to all the concerned and pass a reasoned order within 8 weeks.
- (iv) All contentions kept open.
- (v) Parties to appear before the Authority on 16/03/2017 at 11.00 a.m. The learned Authority to deal with the same accordingly.
- (vi) The petition is accordingly disposed off with no order as to costs.

C. V. BHADANG, J.

ANOOP V. MOHTA, J.

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