

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.585 of 2018**

Mr. Govind U. Bhobe,
81 years of age,
S/o. Late U. Bhobe,
Advocate and Notary
Having office at 2/8,
Roshan Manzil, Nr.
Cine National, Panaji, Goa. .. Petitioner
Vs.

1. The Under Secretary (Law)
(Estt) Link,
Department of Law and Judiciary Law,
(Establishment) Division,
Government of Goa,
Secretariat, Porvorim-Goa
2. The State Registrar cum Head
of Notary Services,
Having office at Patto,
Panjim-Goa.
3. The Government of Goa
Through its Law Secretary
Secretariat, Porvoim-Goa
4. Mr. Indresh Advani,
Major of Age,
Neelkamal Arcade,
Atmaram Borkar Road,
Panjim- Goa .. Respondents.

Shri Ashwin D. Bhobe, Advocate for the petitioner.

Shri S. S. Rebello, Additional Government Advocate for the respondent nos.1 to 3.

CORAM :- C. V. BHADANG, J.

DATE:- 5th June, 2018

ORAL JUDGMENT :

Rule, made returnable forthwith. The learned Additional Government Advocate waives service for the respondents. Heard

finally by consent of parties.

2. The challenge in this petition is to the order dated 01/06/2018 (wrongly mentioned as 01/06/2013) passed by the Under Secretary (Law), whereby the licence of the petitioner granted under the provisions of the Notaries Act and the Rules framed thereunder, has been suspended for a period of two months with effect from 01/06/2018.

3. It appears that there was a complaint lodged against the petitioner, in which an enquiry was held. The Enquiry Officer furnished the report on 30/04/2018 finding that a case for benefit of doubt being granted to the petitioner, is made out. This has been so held in para 17 of the enquiry report. However, at the same time, the Enquiry Officer has observed that there is probability of lack of due diligence, dedication and sincerity on the part of the petitioner, which according to the Enquiry Officer "is not in the interest of law and society." Acting on this, the competent authority has passed the impugned order.

4. On hearing the learned Counsel for the parties and on perusal of the record, it does appear that in so far as the substantive allegation against the petitioner is concerned, the Enquiry Officer had come to the conclusion that the petitioner is entitled to the benefit of doubt. It can, thus, be seen that in so far

as the substantive allegations against the petitioner are concerned, the Enquiry Officer has practically exonerated the petitioner. If at all the competent authority intended to disagree with the enquiry report and to take action, it was necessary for the competent authority to have granted an opportunity of hearing to the petitioner. Admittedly, after the enquiry report was submitted, the competent authority has not granted an opportunity of hearing to the petitioner. Thus, in my considered view, the impugned order would suffer from the vice of breach of principles of natural justice.

5. In the result, the following order is passed :

- (i) The petition is partly allowed.
- (ii)The impugned order is hereby set aside.
- (iii) It would be open to the respondent no.1 to consider the matter afresh and pass appropriate orders, after granting an opportunity to the petitioner of being heard.
- (iv) Rival contentions of the parties are left open.
- (v) Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

SMA