

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.774 OF 2018.

Vinaykumar Usgaonker and anr. ... Petitioners.

Versus

Union of India, thr. Its Secretary,
Ministry of Finance and 3 ors. ... Respondents.

Mr. S. Desai, Advocate for the Petitioners.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 27 August 2018.

P.C.:

Heard Mr. S. Desai, learned counsel for the Petitioners.

2. The Petitioners have sought a declaration that Section 64UM(8) of the Insurance Act, as amended by amendment Act 2015 is unconstitutional. The learned Counsel for the Petitioner contends that by virtue of impugned enactment the Petitioners will have to now acquire fresh qualification even though they have been insurance agent for last more than several decades. The challenge is levied on various grounds as specified in the Petition.

3. We have gone through the new Regulation shown to us by the

learned Counsel for the Petitioners. Regulations, prima facie are open to more than one interpretation. The Petitioners have not approached the regulatory Authority till date to find out as to whether the Petitioners are required to acquire fresh qualification or that the Petitioners have sufficient qualification even as per amended Regulation. It is the contention of the learned Counsel for the Petitioners that even as per new Regulation the Petitioners are qualified.

4. Unless the Respondent/Authority take a stand that the Petitioners are not qualified even as per new Regulation or they have to acquire fresh qualification, the question of examining the validity of the impugned Regulation at the behest of the Petitioners will be academic. It may happen that the Authority accepts the case of the Petitioners that they are qualified.

5. The Learned Counsel for the Petitioners states that Petitioners will make a representation to the Authority as to whether the Petitioners are required to acquire fresh qualification as per the amended Regulation, and depending on the response, will take their challenge further. In case the Petitioners make a representation within a period of two weeks from today, the Authority shall consider disposing of the same at the earliest.

6. In view of this position, this Writ Petition need not be kept pending. Keeping all the contentions of the Petitioners open, the Writ Petition is disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.