



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 12465 of 2013

MP.NO.1 of 2013

M/s.Gemni Parsn Apartment Owners Welfare Association,
Represented by its secretary
Mr.L.C.Joshua, S/o.Late.Capt.Dr.G.T.Joshua,
B-Block, Ground Floor, Gemini Parsn Apartments
599, Anna Salai, Chennai - 600 006.

... Petitioner

-Vs-

1. Inspector General of Registration,
Office of Registration No.100,
Santhome High Road,
Chennai - 600 028.

2. State of Tamil Nadu,
Represented by Secretary to Government,
Fort St.George,
Chennai - 600 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus, call for the records in respect of impugned show cause notice Na.No.9200/I-1/2012 dated 12.04.2013, issued by the first respondent and quash the same and consequently direct the first respondent to permit the petitioner association to function as per the appeal order Na.No.9200/I-1/2012 dated 30.11.2012.

For Petitioner : M/s.V.Subberayan & V.Rani

For Respondents : Mr.P.P.Purushothaman
Government Advocate

O R D E R

The show cause notice issued by the Inspector General of Registration / first respondent in proceedings dated 12.04.2013, is under challenge in this writ petition.



2. The writ petitioner is M/s.Gemni Parsn Apartment Owners Welfare Association. On account of non-compliance of the provisions of the Societies Registration Act, actions were initiated by the respondents for canceling the registration. At the first instance, the registration of the writ petitioner Association was restored and even thereafter, at the time of submission of the particulars, the writ petitioner Association had committed default in providing correct particulars of the office bearers and the details of the Association. This apart, the accounts and audit were also not properly submitted, as per the provisions of the Societies Registration Act. In this regard, the Inspector General of Registration, issued a show cause notice in proceedings dated 12.04.2013, directing the writ petitioner Association to appear before the first respondent on 06.05.2013 at 3.00 p.m. along with the files in relation to the writ petitioner Association for the purpose of conducting an enquiry. However, in stead of submitting their objections / explanations and explaining the details before the first respondent, the petitioner has chosen to file the present writ petition.

3. No writ proceedings can be entertained against the show cause notice in a routine manner. The judicial review against the show cause notice is certainly limited. A show cause notice can be challenged, if the same has been issued by an incompetent authority having no jurisdiction or competency or if an allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of malafides, the authority against whom such an allegations are raised is to be impleaded as party respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ proceedings can be entertained against the show cause notice.

4. Intermittent intervention in statutory proceedings are not desirable. Such intermittent interventions will cause prejudice to the completion of the statutory proceedings initiated by the competent authorities by invoking the provisions of the Act. Inless there is a legal ground to interfere, the High Courts must allow the authorities competent to proceed with the enquiry and conclude the same by providing opportunity to all the persons concerned. This being the scope of the proceedings, the High Courts must be cautious while entertaining the writ against the show cause notice. Stalling the statutory proceedings on the show cause notice will certainly affect the effective and efficient implementation of the Statutes concern. Thus, in the event of any established legal grounds, no writ proceedings shall be admitted against the show cause notice. The Hon'ble Supreme Court also time and again



emphasized that writ against the show cause notice cannot be entertained in a casual manner.

5. As per the provisions of the Societies Registration Act, the Association registered is duty bound to submit the details of the Association including the accounts and audit to the respective authorities. In the absence of submission of all such particulars to the competent authorities, they are empowered to initiate actions under the provisions of the Act. Thus, the issuance of show cause notice can never be said to be irregular or illegal. It is duty mandatory on the part of the writ petitioner Association to submit the details of the Association and the particulars regarding the office bearers as well as the accounts and audit of the Association.

6. This being the factum of the case, this Court is of an opinion that the writ petitioner has to submit all these details and in the event of not submitting all such details to the competent authorities, the registration of the Association is liable to be cancelled by conducting an enquiry as contemplated under the Act and Rules.

7. This being the principles to be followed, the writ petitioner has not established any acceptable legal grounds for the purpose of interference and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. Inspector General of Registration,
Office of Registration No.100,
Santhome High Road,
Chennai - 600 028.

2. The Secretary to Government,
Fort St.George,
Chennai - 600 009.

+1cc to Government Pleader sr.no.72447

W.P.No. 12465 of 2013
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nr 26/11/2018