

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 717 OF 2018

IN

WRIT PETITION NO. 438 OF 2017

SHAIKH FAROOQ KAMPA.,

... Applicant

Versus

STATE OF GOA, THR. ITS CHIEF
SECRETARY AND 14 ORS.,

... Respondents

Mr. Sudesh Usgaonkar with Ms. R. Pereira, Advocates for the applicants.

Mr. E.O. Mendes, Advocate for the original petitioner in Writ Petition No.248 of 2017.

Mr. D.J. Pangam, Advocate General with Mr. Deep Shirodkar, Additional Government Advocate for the respondent-State.

Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.

Date:- 27th August, 2019

P.C.:

Heard Mr. Sudesh Usgaonkar with Ms. R. Pereira, learned Advocates for the applicants, Mr. E.O. Mendes, learned Advocate for the original petitioner in Writ Petition No.248 of 2017 and Mr. D.J. Pangam, learned Advocate General with Mr. Deep Shirodkar, learned Additional Government Advocate for the respondent- State.

2. The applicants herein were the respondent Nos.4 to 15 in Writ Petition No. 438 of 2017 which was instituted by the original

petitioners now represented by Mr. Mendes, learned Advocate inter alia seeking enforcement of directions in order dated 03/10/2013 made by the District Registrar, (South Goa)/Inspector General of Societies in relation to affairs of Jamattul Muslimin Shaffi Masjid and Government order dated 31/10/2014.

3. This petition was disposed of by order dated 27/06/2017 by recording the statement made by the learned Advocate General appearing for the respondents No.1 and 2 to the effect that notwithstanding the renewal of registration granted to the subject society, the enquiry with regard to the affairs to the extent as directed in the orders dated 03/10/2013 and 31/10/2014 will be initiated and taken to their logical conclusion in accordance with law.

4. Mr. Usgaonkar, learned Counsel for the applicants submits that no notice was issued to the applicants herein though they were impleaded as the respondents in the said Writ Petition. For this reason he submits that the order dated 27/06/2017 is liable to be recalled. Mr. Usgaonkar, learned Counsel without prejudice to the aforesaid further submits that there remains nothing to be complied with or implemented in terms of the order dated 03/10/2013 and therefore, there was no case made out to entertain the petition or to direct that the matter be taken to its

logical conclusion in terms of the statement made by the learned Advocate General. He submits that whatever was required to be done in terms of order dated 03/10/2013 had already been done and there was no further issue of compliance remaining. He submits that this is an additional ground to recall our order dated 27/06/2017.

5. According to us, since the applicants were impleaded as parties to the petition, normally, notice was required to be served on the applicants and the applicants were required to be heard in the matter. However, we find that our order dated 27/06/2017 is not really adverse to the interest of the present applicants. Besides, we have only recorded the statement of the learned Advocate General that the matter will be taken to its logical conclusion in accordance with law. According to us, the statement made as well as its recording was quite innocuous because even otherwise, it is not only within the province of the Government/appropriate authority to take the matter to its logical conclusion and further in doing so they are required to act in accordance with law. This requirement of acting in accordance with law will obviously include affording of opportunity to not only the original petitioner but also the present applicant. We have no doubt that such opportunity will be extended to both the original petitioner as well as to present applicants.

6. In the course of such opportunity, it will be undoubtedly open to the applicants to point out that the directions in the order dated 03/10/2013 or for that matter any other order stands complied with and there is nothing further remaining for compliance. Similarly, it will be open to the original petitioner to point out otherwise. This means that all contentions of all the parties are left specifically open.

7. Besides, if the applicants have any grievance against any action or any stage of action which is initiated, then the applicants, are always at liberty to take out the independent proceedings to question the same. Nothing in our order dated 27/06/2017 restricts such right of the applicants or for that matter, of the original petitioner.

8. With the aforesaid clarification we dispose of this application.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

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