

(2016) 02 BOM CK 0094
In the Bombay High Court
Case No : Writ Petition No. 82 of 2016

Ayyappa Seva Samithi

APPELLANT

Vs

The District Registrar and Inspector General of Societies
(South) and Others

RESPONDENT

Date of Decision : 26-02-2016

Acts Referred:

Citation : (2016) 02 BOM CK 0094

Hon'ble Judges : S.B. Shukre, J.

Bench : Single Bench

Advocate : G. Vijaychandran, Advocate, for the Appellant; P. Dangui, Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

S.B. Shukre, J.—1. Heard. Rule. Rule, made returnable forthwith. Heard finally by consent.

2. By this writ petition, the petitioner, which is the society registered under the Societies Registration Act, 1860 as it is applicable to the State of Goa with all its amendments made under the Societies Registration (Goa, Daman and Diu first amendment) Act, 1979, has challenged the order dated 03/11/2015 passed by the respondent No. 1 on the basis of a complaint filed by the respondent No. 2 that the elections of the society were held by not following proper procedure and that the amended bye-laws of the year 2000, being not approved by Registrar, the elections ought to have been conducted by following the procedure prescribed in original bye-laws of the year 1980.

3. The impugned order discloses that the learned Registrar has held the elections conducted on 05/07/2015 as illegal only on the ground that they were conducted according to the procedure laid down in the amended bye-laws of the year 2000, which were not approved by him.

4. On going through the provisions of the Societies Registration Act, 1860, it is

seen that there is no provision expressly conferring power upon the Registrar to grant his approval to the amendments carried out to any bye-laws by a registered society, nor such provision could be brought to my notice by learned Counsel for either of the contesting parties. The respondent No. 1- The District Registrar & Inspector General of Societies (South) is also present in person and he too could not point out to me any such specific provision. If this is the position, I do not think that the learned Registrar can declare the elections to the office of the Registered Society as illegal only on the ground that they have been conducted by following a procedure contained in unapproved amended bye-laws.

5. Upon going through the other relevant sections, which are Sections 4A and 20A of the Societies Registration Act, 1860, as applicable to the State of Goa, what is seen is that the Inspector General or Registrar of Societies does have a power to examine and scrutinise the affairs of the Society from the view point of they are being conducted in a manner as to enhance or frustrate the object of the society. If the Inspector General or Registrar of Societies is satisfied that the affairs of the society are not being conducted in order to fulfill the objects of the society, the law confers powers upon him to interfere and issue necessary directions. From this view point, I am of the view that the learned Registrar, in the instance case, could have examined the validity of the bye-laws.

6. In the circumstances, I find that the impugned order cannot be sustained in law and, therefore, it deserves to be quashed and set aside. Of course, liberty would also have to be reserved to learned Registrar for exercising his supervisory powers in terms of Sections 4A and 20A of the Societies Registration Act, 1860 in the instant matter, which even otherwise he would always have under the law. Accordingly, the writ petition is allowed. The impugned order is quashed and set aside. The respondent No. 1 is at liberty to examine the validity of the bye-laws in the light of his powers under Sections 4A and 20A of the Societies Registration Act, 1860.

7. Liberty to file fresh challenge to the bye-laws is granted. If same is done, it shall be decided in accordance with law together with all its consequences by the learned Registrar. The contentions of the parties relating to the validity of bye-laws and the consequences that would follow in the event of the bye-laws being held to be not serving the objects of the societies, are kept open.

8. Rule is made absolute in these terms. No costs.