

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 653 OF 2016

MR. SNOWKON GONSALVES AND ANR. ... Petitioner
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 4 ORS. ... Respondent

Mr. Galileo Francisco Teles, Advocate for the petitioners.

Ms. P. Calangutkar, Additional Government Advocate for respondent nos.1, 4 and 5.

Mr. S. G. Dessai, Senior Advocate with Mr. A. V. Pavithran, Advocate for respondent nos.2 and 3.

Coram:- SMT. R. P. SONDURBALDOTA &
C. V. BHADANG, JJ.

Date:- 29th November, 2016

P.C.

This petition filed under Articles 226 and 227 of the Constitution of India, seeks following three reliefs :

"(a) Writ of Mandamus or any other writ in the nature of Mandamus, Direction/ Order directing the respondent no.2 to comply with the statutory provisions and implement the provisions of the Goa Panchayat Raj Act, 1994 and Goa Panchayat (Meetings) Rules, 1996 at the time of holding meetings of the Panchayat and also to keep the minutes book available in terms of Section 57 of the Goa Panchayat Raj Act, 1994.

- (b) Writ of Certiorari or any other writ, order or direction calling for the minutes of the meeting held on 16/6/2016 in the office of the respondent no.2 and after considering its legality and propriety and correctness hold that the meeting held on 16/06/2016 is illegal, null and void being in contravention of Section 54(3) of the Goa Panchayat Raj Act, 1994 and consequently quash and set aside the said minutes.
- (c) Writ of Mandamus or in a nature of Mandamus or a writ or an order directing the respondent no.2 to forward the Minutes of every meeting of the panchayat within 10 days to the respondent no.4 in terms of Section 57(2) of the Goa Panchayat Raj Act, 1994."

2. Bare perusal of prayer clauses (a) and (c), will show that all that the petitioners desire by those prayers, is to direct the respondents generally to follow the law laid down in Goa Panchayat Raj Act, 1994 and Goa Panchayat (Meetings) Rules, 1996. Such prayers are wholly unnecessary and superfluous. Ordinarily, the Court would be slow to grant such blanket directions. The approach to the Court can only be for action in case of breach of any legal provisions. Therefore, in the facts of the present case, we are not inclined to grant prayer clauses (a) and (c).

3. As regards prayer clause (b), the petitioners have an alternate remedy under Section 56 of the Goa Panchayat Raj Act, to call for an ordinary or special meeting for modification or cancellation of resolution passed in the meeting, which according to the petitioners, is illegal. It is also to be noted that the only reason for which, according to the petitioners, the meeting dated 16th June, 2016 is illegal, is that the notice of that meeting was not properly served upon the petitioners and that the notice did not contain the agenda. There is no dispute that the notice was in fact served upon the petitioners. Their grievance is only as regards the duration of the notice. Admittedly, the petitioners have participated in the meeting. Besides there is no averment in the petition that the petitioners had suffered any specific prejudice on account of insufficient notice. In any case, Section 59(2) of the Goa Panchayat Raj Act provides that no resolution of Panchayat or of any Committee of a Panchayat constituted under this Act shall be deemed invalid on account of irregularity in the service of notice upon any member, provided that the proceedings of the Panchayat or Committee were not prejudicially affected by such irregularity. The petitioners do not even allege that the proceedings were prejudicially affected in any way.

4. Mr. Teles complains that respondent no.2 has not been recording minutes of the meetings immediately. This according to him, can lead to disputes as regards the business conducted in the meetings.

His second grievance is of the minutes not being forwarded to the BDO within 10 days as required by the Act. Section 173 of Goa Panchayat Raj Act gives power of inspection and supervision to the Secretary of Government in charge of Panchayat Raj Department, to inspect the offices or premises and also to examine the books of accounts and registers and other documents of the concerned Village Panchayat. He can also call for returns etc., if he thinks fit. Therefore, the petitioners have a remedy provided under the Goa Panchayat Raj Act for this situation also.

5. In such circumstances, we are not inclined to entertain the petition. The petition is, accordingly, dismissed, with no order as to costs.

C. V. BHADANG, J.

SMT. R. P. SONDURBALDOTA, J.

SMA