

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 28 OF 2014

MR. SUDIP N. TAMANKAR.,

... Petitioner

Versus

STATE OF GOA THR. THE CHIEF
SECRETARY FOR TRANSPORT AND 34
ORS.,

... Respondents

Mr. Rohit Bras De Sa, Advocate for the Petitioner.

Mr. A. N. S. Nadkarni, Advocate General with Mr. D. Lawande,
Government Advocate for the Respondent nos.1 and 2.

Mr. D. Pangam, Advocate for the Respondent nos. 3 to 9 and 11 to
29.

Mr. D. Gaonkar, Advocate for the Respondent no. 10.

Mr. S. D. Lotlikar, Senior Advocate with Mr. C. Padgaonkar,
Advocate for the Respondent nos. 30 to 35.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 7th March, 2016

P.C.

Heard Shri Rohit Bras De sa, learned Counsel appearing for the
Petitioner, Mr. A. N. S. Nadkarni, learned Advocate General
appearing for the Respondent nos. 1 and 2, Mr. D. Pangam, learned
Counsel appearing for the Respondent nos. 30 to 35, Mr. Gaonkar,
learned Counsel appearing for Respondent no. 10 and Mr. S. D.
Lotlikar, learned Senior Advocate appearing for the Respondent nos.
30 to 35.

2. Shri Rohit Bras De Sa, learned Counsel appearing for the
Petitioner, has submitted that pursuant to the directions of this Court,
a vigilance inquiry was ordered and a report was submitted which

support the allegations in the above Petition. Learned Counsel further pointed out that though chargesheet has been filed by the Respondents, nevertheless, the proceedings have to be decided expeditiously as otherwise, it would amount to giving a premium to the delinquent Officers who are charged in such proceedings. Learned Counsel further submits that the Petitioner should also be given liberty to appear before the Inquiry Officer to produce the material in support of the allegations. Learned Counsel further submits that the delinquent Officers should be suspended during the pendency of the Inquiry as, according to him, they would influence the witnesses or tamper with the evidence in case they are in office.

3. On the other hand, Shri Nadkarni, learned Advocate General appearing for the Respondent nos. 1 and 2, has stated that an Inquiry Officer shall be appointed within two weeks from today in terms of the Rules and such inquiry shall be concluded within six months. Learned Advocate General further submits that the question of suspending or otherwise, is a matter to be examined by the State Government on its own merits and, as such, the question of issuing any directions on that count would not arise. Learned Advocate General further submits that the Respondents-State Government shall examine the material produced by the Petitioner in the Petition whilst placing the matter before the concerned Inquiry Officer.

4. Shri Pangam, learned Counsel appearing for the Respondent nos.

3 to 9 and 11 to 29, has strongly objected to the presence of the Petitioner before the Inquiry Officer. Learned Counsel further submits that the question of any third party intervening in the inquiry would not arise.

5. We have considered the submissions of the learned Counsel and we have also gone through the records. The apprehension of Mr. Rohit Bras De Sa, learned Counsel appearing for the Petitioner, that the inquiry may be unduly delayed, would not survive considering the statement of the learned Advocate General that Inquiry Officer would be appointed within a period of two weeks and that such proceedings shall be disposed of in terms of the Rules within six months thereafter.

6. As far as the contention of Mr. Rohit Bras De Sa, learned Counsel, that the Petitioner be permitted to intervene in the Inquiry Proceedings, we find that the Division Bench of this Court in a Judgment dated 15.01.2013 passed in Writ Petition no. 159 of 2012 in the case of Mr. Ajit Sricanta Bacal & anr. vs. The State of Goa & 42 Ors., has observed at para 5 thus :

"5. In our view, since the State Government has already started taking action and has issued show cause notices to all the appointees and it proposes to hold enquiry and take decision in accordance with law, it would not be necessary to keep all these petitions pending.

Further, since the enquiry is being held under the provisions of Civil Services Rules, these rules do not contemplate that any third party should be permitted to intervene or even observe such proceedings. Wherever any such allegation is made regarding the alleged appointment of a public servant, the said public servant has right to defend himself as per the procedure laid down in the Civil Services Rules and as such, in these proceedings, third party cannot be permitted to intervene."

7. Taking note of the said observations, the request of Mr. Rohit Bras De Sa, learned Counsel appearing for the Petitioner, to allow him to intervene before the Inquiry Officer, would not arise as the Civil Service Rule do not contemplate any intervention by third parties. But, however, taking note of the statement of the learned Advocate General, that the material placed in the above Petition would be examined by the Respondents and produced during the course of the inquiry before the Inquiry Officer, the apprehension of the Petitioner would not survive.

8. As far as the contention of Mr. Rohit Bras De Sa, learned Counsel appearing for the Petitioner, that the delinquent Officers should be suspended, we find that the question of issuing such directions in the present Petition would not arise. This aspect is to be considered by the State Government in accordance with law.

9. With the said statement of the learned Advocate General appearing for the Respondent nos. 1 and 2, the said Petition does not survive and stands disposed of accordingly.

K. L. WADANE, J.

F. M. REIS, J.

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