

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 180 OF 2017**

Advocate Aires Rodrigues,
major, w/office at C/G-2
Shopping Complex,
Ribandar Retreat,
Ribandar-Goa-403006.

..... Petitioner

V e r s u s

State of Goa,
by its Chief Secretary,
Secretariat, Porvorim,
Goa.

..... Respondent

Petitioner in Person.

Mr. D. Lawande, Addl. Advocate General for the Respondent.

**CORAM:- ANOOP V. MOHTA &
NUTAN D. SARDESSAI, JJ.
DATE :- 1ST MARCH, 2017.**

ORAL JUDGMENT (Per Anoop V. Mohta, J):

Heard the learned counsel for the parties finally. The petitioner, (a party in person) in the petition dated 13/2/2017, prays as under:

- a) That a writ of mandamus or in the nature of mandamus or any other appropriate writ, Order or direction be issued directing the Respondent to ensure that the Constitutional mandate is followed of either summoning the House or in failure thereof for dismissal of the Government.

2. This is on the foundation of Articles 174 and 226 of the Constitution of India. Article 174(1) is reproduced as under:

"Article 174 (1): The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session."

3. The scheme and purpose of the above provisions are clear and elaborated in various judgments of the Supreme Court and recently in **Nabam Rebia, and Bamang Felix Versus Deputy Speaker and others (2006) (8) SCC 1**. The power of the Governor to summon the assembly is well defined.

4. The mandate of Article 174 r/w Article 356 of the Constitution of India has been taken note of. It was necessary as stated, to have a session on or before 3/3/2017. In the present case, the General Assembly elections conducted in the State on 4/2/2017. The counting is scheduled on 11/3/2017. The mandate of holding the session within six months was on or before 3/3/2017. In the background, therefore, the Hon'ble Governor has issued and

published the Extraordinary Official Government Gazette Series No.47 dated 26/2/2017 summoned the Legislative Assembly which is marked 'X' for identification and which reads as under:

"Notification

No.LA/Legn/2017/2459

The following order of the Governor of Goa dated 25th February, 2017 is hereby published for general information:

"Order

In exercise of the powers conferred by Clause (1) of Article 174 of the Constitution of India, I, Mridula Sinha, Governor of Goa, hereby summon the Legislative Assembly of the State of Goa, to meet at Assembly Hall, on Tuesday, 28th February, 2017 at 11.30a.m.

Raj Bhavan,
Goa-403 004,
25th February, 2017.

Sd/-
(MRIDULA SINHA)
Governor of Goa."

Assembly Hall,
Porvorim, Goa.
26th February, 2017.

Sd/-
(N. B. SUBHEDAR)
Secretary

5. Admittedly, there was no interim order or direction issued in the matter till this date in the writ petition including dissolution of the Assembly or the dismissal of the Government. The new Government is going to take charge in short time. A statement is made by the learned counsel appearing for the parties that based upon the above notification, the Legislative Assembly of the State of Goa met and conducted the one day session on 28th of February 2017. On that day, what transpired and/or what happened in one day assembly session is not the scope and power of

High Court to deal with or on any such issues. Apart from this, there are no such averments and the prayers in the petition made related to the summoning one day Legislative Assembly.

6. Therefore in the background and in view of the position of law and facts, there is no constitutional bar or prohibition to summon such assembly. It is well within the frame of law. We see there is no reason to keep this petition pending. The petition is accordingly disposed off as infructuous. No costs.

NUTAN D. SARDESSAI, J.

ANOOP V. MOHTA, J.

ap/-